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federal register

TUESDAY, DECEMBER 28, 1976

highlights

PART I:

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reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

CAB—Charter trips by foreign air carriers.
53651; 12–8–76

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202–523–5240.

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that one position of Research Assistant to the Administrator, National Highway Traffic Safety Administration is excepted under Schedule C.

Effective December 28, 1976, § 213.3394 (i) (5) is added as set out below:

§ 213.3394 Department of Transportation.

* * * * *

(i) *National Highway Traffic Safety Administration.* * * *

(5) One Research Assistant to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37973 Filed 12-27-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Treasury

Section 213.3305 is amended to reflect the following organizational title changes: (1) From Deputy Assistant Secretary (Trade and Raw Materials Policy), Office of the Assistant Secretary (Trade, Energy and Financial Resources Policy Coordination) to Deputy Assistant Secretary (Trade and Raw Materials Policy), Office of the Assistant Secretary (International Affairs); (2) from Deputy Assistant Secretary for Research and/or Director of Research (International Affairs), to Deputy Assistant Secretary for Research and Planning (International Affairs); (3) from Deputy Assistant Secretary (Energy Policy), Office of the Assistant Secretary (Trades, Energy, and Financial Resources Policy Coordination) to Deputy Assistant Secretary (Investment and Energy Policy), Office of the Assistant Secretary (International Affairs).

Effective December 28, 1976, §§ 213.3305(a) (21), (a) (31), and (a) (58) are amended as set out below:

§§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(21) Deputy Assistant Secretary for Trade and Raw Materials Policy (International Affairs).

* * * * *

(31) Deputy Assistant Secretary for Research and Planning (International Affairs).

* * * * *

(58) Deputy Assistant Secretary for Investment and Energy Policy (International Affairs)

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37974 Filed 12-27-76;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 270—GENERAL INFORMATION AND DEFINITIONS

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

On May 7, 1976, there was published in the FEDERAL REGISTER (41 FR 18781), revisions in the regulations governing the Food Stamp Program.

The U.S. District Court for the District of Columbia has restrained implementation of these regulations (D.D.C., Civ. Act. No. 76–933 and 934). Therefore, except as they may be otherwise amended or modified, the Food Stamp Program shall be governed by the regulations in effect on May 6, 1976 during the period that court orders are in effect restraining implementation of the May 7, 1976 amendments.

Dated: December 20, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-37605 Filed 12-27-76;8:45 am]

[Amendment No. 88]

PART 275—PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

State Agency Costs

On July 9, 1976 a notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 28312) amending Part 275 Appendix A, Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State agencies. Standards for Selected Items of Cost, Paragraph B(3), Capital expenditures, would be amended to provide for a higher exemption for immediate federal financial participation in the costs of acquisition of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets, or non-expendable personal property having a useful life of more than one year.

Interested persons were to submit written comments, suggestions, or objections regarding the proposed amendment by August 9, 1976. There were 14 responses received on the proposed amendment. Of the letters submitted, nine were from State agencies, one response was from a Regional Office, and four were from special interest groups. All endorsed the increase in the exemption with the exception of two "no comment" responses.

Four of the responses objected to the establishing of a limit inconsistent with that of the Department of Health, Education and Welfare, which recently increased its exemption to $5,000 per item to be acquired. One response requested a higher limit for security-related items. We will continue to allow higher priced items, including security-related items, to be acquired provided approval is requested and received prior to the acquisition. We do not believe that a $5,000 limit would provide the degree of control which this agency feels is necessary.

The result of the following change would be that the costs of capital items of $2,500 or less could be made as an immediate one-time charge to the Food Stamp Program for Federal financial participation. Items if more than that amount could be charged for immediate Federal financial participation provided that the procurement is specifically approved by FNS. Otherwise, the costs of items of more than $2,500 could only be compensated through use allowances or depreciation, as otherwise provided by Part 275.

Therefore, Part 275, Appendix A, Title 7 Code of Federal Regulations is amended as follows:

Appendix A—Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State Agencies.

* * * * *

STANDARDS FOR SELECTED ITEMS OF COST

* * * * *

B. *Cost allowable with approval of FNS*—

* * * * *

(3) *Capital expenditures.* The cost, net of any credits, of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets, and/or of nonexpendable personal property, having a useful life of more than one year and an acquisition cost of more than $2,500 per unit, is allowable when such pro-

curement is specifically approved by FNS. No such approval shall be granted unless the State agency shall demonstrate to FNS that such a cost is (i) necessary and reasonable for proper and efficient administration of the program, and allocable thereto under the principles provided herein, and (ii) that procurement of such item or items has been or will be made in accordance with the standards set out in 275.15 of Part 275. In no case shall such a cost become a program charge against FNS prior to approval in writing by FNS of the procurement and the cost. When assets acquired with Federal funds are (i) sold, (ii) no longer available for use in a federally sponsored program, or (iii) used for purposes not authorized by FNS, the Federal Agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

* * * * *

(78 Stat. 703, as amended; 7 U.S.C. 2011–2026.)

Effective Date: This amendment shall become effective December 20, 1976.

(Catalog of Federal Domestic Assistance Programs No. 10.551. National Archives Reference Services)

Dated: December 20, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-37731 Filed 12-27-76;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT) DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 3]

PART 775—FEED GRAINS

Feed Grain Program for Crop Years 1975–1977; 1977 Feed Grain Allotment

On July 30, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 31849) stating that the Secretary of Agriculture proposed to make determinations and issue regulations relative to the 1977 national feed grain allotment. Interested persons were invited to submit written data, views, and recommendations regarding the determinations. The comments and recommendations received have been duly considered.

The regulations governing the Feed Grain Program for Crop Years 1975–1977 are amended by adding a new 7 CFR 775.4b. The purpose of this section is to determine and proclaim the 1977 national feed grain allotment.

Pursuant to section 105(b)(2) of the Agricultural Act of 1949, as amended by the Agriculture and Consumer Protection Act of 1973, Pub. L. 93-86, 87 Stat. 221, 231 (1973), the Secretary is required, prior to January 1 of each calendar year, to determine and proclaim for the crop produced in such calendar year a national acreage allotment for feed grains which shall be the number of acres he determines, on the basis of the estimated national average yield of the feed grains included in the program for the crop for which the determination is being made, will produce the quantity (less imports) of such feed grains that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of any of the feed grains are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the feed grain allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks.

The determination in § 775.4b of the 1977 national feed grain allotment is based on the acreages, yields, and usage set out therein. The determination has been made on the basis of the latest available statistics of the Federal Government. Compliance with the feed grain allotment is not a condition of eligibility for participation in the program, and feed grain acreage on the farm may vary widely from the farm feed grain allotment. Hence, in determining the national allotment, an adjustment for the purpose of increasing carryover stocks to a more desirable level was not considered necessary, and no such adjustment was made.

7 CFR Part 775 is amended by adding a new § 775.4b to read as follows:

§ 775.4b 1977 national feed grain allotment.

Based on estimated utilization (less imports) for the 1977–78 marketing year of 5,924 million bushels of corn, 775 million bushels of sorghum, and 370 million bushels of barley and estimated national yields of 90.0 bushels per acre for corn, 53.5 bushels per acre for sorghum, and 44.5 bushels per acre for barley, the combined acreage of corn, sorghum and barley needed to produce a quantity of feed grains equal to estimated utilization is determined to 89.0 million acres is hereby proclaimed.

(Sec. 105, 63 Stat. 1054, as amended; 87 Stat. 231; 7 U.S.C. 1441 note)

Effective date: This amendment becomes effective on December 27, 1976.

Signed at Washington, D.C., on December 21, 1976.

JOHN A. KNEBEL,
Secretary of Agriculture.

[FR Doc.76-37910 Filed 12-27-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Clay County in Iowa.

The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they again come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Phelps and Putnam Counties in Missouri; Choctaw County in Oklahoma.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Cherokee, Clay, and Cleburne Counties in Alabama; Cherokee, Jasper, and Union Counties in Iowa; Carter and Marion Counties in Missouri; Jackson County in Tennessee.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Kiowa County in Colorado; Pike and Wayne Counties in Illinois; Benton and Linn Counties in Iowa; Graham, Greeley, Logan, Sheridan, Thomas, and Wallace Counties in Kansas; Juncos County in Puerto Rico; Beadle County in South Dakota.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.* Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Barbour, Dale, Etowah, Geneva, Henry, Lee, Russell.

Arkansas. Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Greene, Jackson, Johnson, Lafayette, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Perry, Pike, Polk, Prairie, Searcy, Sharp, Stone, Union, Woodruff, Yell.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee,

Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Dade, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Pasco, Santa Rosa, Seminole, Sumter, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, Dawson, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene Habersham, Henry, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Caribou, Clearwater, Custer, Fremont, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Bond, Boone, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Chickasaw, Clarke, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Plymouth, Scott, Shelby, Tama, Taylor, Van Buren, Wapello, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Comanche, Doniphan, Ford, Gove, Graham, Greeley, Haskell, Hodgeman, Johnson, Lane, Logan, Marshall, Pawnee, Phillips, Riley, Scott, Sheridan, Thomas, Trego, Wallace, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Jackson, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dallas, Douglas, Dunklin, Franklin, Gasconade, Hickory, Iron, Jackson, Laclede, Lewis, Miller, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Cheatham, Claiborne, Davidson, Decatur, Dickson, Fentress, Grainger, Greene, Grundy, Hancock, Hardin, Jefferson, Johnson, Knox, Lake, Meigs, Morgan, Polk, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Warren, White.

Texas. Brewster, Childress, Comal, Crane, Ector, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Mason, Newton, Pecos, Reagan, Roberts, Sterling, Terrell, Val Verde, Ward, Winkler.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo, Rojo, Caguas, Camuy, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Pieddras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.* Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Escambia, Fayette, Franklin, Greene, Hale, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Chicot, Clark, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jefferson, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Phillips, Poinsett, Pope, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White.

Colorado. Mesa, Pueblo, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, New-

ton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Ada, Bannock, Bingham, Bonneville, Butte, Cassia, Clark, Elmore, Franklin, Gem, Gooding, Jefferson, Lincoln, Madison, Minidoka, Twin Falls.

Illinois. Brown, Effingham, Hardin, Pope, Williamson.

Iowa. Allamakee, Appanoose, Cedar, Cerro Gordo, Cherokee, Crawford, Decatur, Floyd, Guthrie, Harrison, Jasper, Monroe, Poweshiek, Ringgold; Sac, Sioux, Story, Union, Warren, Wayne.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Grant, Gray, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Wabaunsee, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckenridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Daviess, De Kalb, Dent, Gentry, Greene, Grundy, Harrison, Henry, Hold, Howard, Howell, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, DeKalb, Dyer, Fayette, Franklin, Gibson, Giles, Hamblen, Hamilton, Hardeman, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lewis, Lincoln, Louden, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Perry, Pickett, Putnam, Rhea, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Van Buren, Washington, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Utah. Box Elder, Cache.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Carolina, Guaynabo, Hatillo, Las Piedras, Naguabo.

§ 78.22 Noncertified Areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

(b) *Specific Counties Within States.*

Iowa. Clay.

Puerto Rico. Vieques.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 111–113, 11a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

Effective date: The foregoing amendments shall become effective December 28, 1976.

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of December, 1976.

The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

J. M. HEJL,
Deputy Administrator,
Veterinary Services.

[FR Doc.76-37561 Filed 12-27-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5791 and 34-13083]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Adoption of Amendments to Registration Forms and Guide and Rescission of Registration Form

The Securities and Exchange Commission today adopted amendments to Form S-7 (17 CFR 239.26) and Form S-16 (17 CFR 239.27), which make these forms available to a larger number of issuers, and rescinded Form S-9 (17 CFR 239.22), under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). These amendments were published for comment in Securities Act Release No. 5728 and Securities Exchange Act Release No. 12654 (July 26, 1976) (41 FR 32540) and are adopted substantially as proposed, although certain modifications have been made. The Commission has determined that the modifications made to Forms S-7 and S-16 from those published for comment, which generally represent a relaxation of the proposed provisions, do not impose a significant additional burden on registrants nor necessitate a republication for comment pursuant to the Administrative Procedure Act of 1946 (5 U.S.C. 553).

The Commission also authorized the publication of a related amendment to Guide 30 of the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933 ("Guides"), Securities Act Release No. 4936 (December 9, 1968) (33 FR 18617), as amended. The amendment to Guide 30 is technical in nature and is necessitated by the above-mentioned rescission of Form S-9. Therefore, the Commission has also determined that the opportunity for public comment under the Administrative Procedure Act of 1946 is unnecessary.

This release contains a general discussion of the background, purpose and effect of the amendments and a brief description of certain significant aspects of them. Attention is directed to the attached text of the amendments for a more complete understanding.

Background and Purpose

Forms S-7 and S-16 are short registration forms available for registration of securities under the Securities Act. Registrants eligible to use Forms S-7 and S-16 are permitted to omit from the Form S-7 prospectus, or to incorporate by reference in the Form S-16 prospectus, substantial information already provided to security holders or available to investors in material filed with the Commission pursuant to the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). As a result, a Form S-7 prospectus generally is simpler and shorter than one prepared pursuant to other available forms and the burden and expense to registrants of preparing the registration statement is reduced; this is true to an even greater extent with respect to Form S-16. Also, these short form registration statements are usually examined and declared effective more quickly by the staff. Recently, the Commission has taken action to further expedite the review of such registration statements by adopting General Instruction H to Form S-7 and General Instruction D to Form S-16, which request registrants to advise the Division of Corporation Finance of their intention to file a registration statement on Form S-7 or S-16.[1] Such notice would enable the staff to promptly review the registrant's Exchange Act reports in order to expedite processing of the registration statement when filed.

There have recently been improvements in the nature and extent of the information required to be included in reports filed with the Commission and in material provided to security holders[2] pursuant to the requirements of the Exchange Act, and the Commission is continuing its efforts to achieve greater improvements. The Commission's experience to date with the forms as proposed to be amended[3] and the comments of the public on the proposals have presented no reasons to indicate that expanded availability of the forms is not desirable. Therefore, the Commission believes that Forms S-7 and S-16 should be made available for use by a larger number of registrants subject to the reporting requirements of the Exchange Act. Registrants using these forms are reminded of their obligations to make full and prompt announcements of material facts regarding their financial condition, notwithstanding compliance with the reporting requirements of the Exchange Act. The failure of registrants to make prompt and accurate disclosure of both favorable and unfavorable information to security holders and the investing public may violate the Exchange Act and, in the case of a registrant making a continuous offering of its securities, may also violate the Securities Act if the prospectus is not appropriately updated. Therefore, registrants are urged once again to review their policies with respect to corporate disclosure and endeavor to set up procedures which will insure that prompt disclosure is made of all material corporate developments.[4]

During the past several months, the Commission has accelerated its program to further integrate, streamline and update the corporate disclosure system it administers under the Securities Act and the Exchange Act. The adoption of these amendments is an important step since it permits information provided to investors pursuant to the continuous disclosure requirements of the Exchange Act to be relied upon in lieu of disclosure which otherwise would be required in registration statements under the Securities Act. The Commission has also adopted a revised Form S-8 in Securities Act Release No. 5767 (November 22, 1976) (41 FR 52662) as part of this program and has invited public comment on the following proposals: to adopt a new registration form to allow a shorter prospectus to be used in connection with certain business combination transactions, Securities Act Release No. 5744 (October 4, 1976) (41 FR 43876); to amend the rules governing tender offers, including steps to allow persons making tender offers to communicate information to offerees in a more efficient and understandable form, Securities Act Release No. 5731 (August 6, 1976) (41 FR 33004); to amend Forms 8-K (17 CFR 249.308) and 10-Q (17 CFR 249.308a) under the Exchange Act to reduce the number of current reports required to be filed on Form 8-K, Securities Exchange Act Release No. 12619 (July 19, 1976) (41 FR 29784); and to amend Form S-16 to make it available to a limited category of large companies for use in registering certain primary offering of securities, Proposed Rules in this issue at page (Securities Act Release No. 5792 (December 20, 1976)). It has also been announced that the Commission is reviewing the procedures available to small issuers to raise capital, and that proposals may be published soon to solicit comments on how these procedures may be simplified.

Adoption of Amendments to Forms S-7 and S-16

The amendments adopted today make Forms S-7 and S-16 available for the registration of securities by a greater number of registrants subject to the disclosure requirements of the Exchange Act. The Commission has considered all the letters of comment received on the proposals, all of which supported the primary goal of the proposals, i.e., making the forms more widely available for use by registrants. Many of the changes suggested by the commentators have been incorporated into the amendments adopted today. A discussion of the more important amendments is set forth below.

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[1] Securities Act Release No. 5777 (December 2, 1976) (41 FR 53473).

[2] *See*, for example, Exchange Act Rule 14a-3(b) (17 CFR 240.14a-3(b)), as amended by Exchange Act Release No. 11079 (October 31, 1974) (39 FR 40768), which calls for additional information to be included in the Annual Report to Shareholders and requires registrants to indicate in the Annual Report to Shareholders or the proxy statement that copies of its report on Form 10-K (17 CFR 249.310) are available to its shareholders without charge upon request.

[3] Securities Act Release No. 5728 permitted registrants to use Forms S-7 and S-16 as proposed to be amended while the proposals were pending. Also Securities Act Release No. 5613 (September 11, 1975) (40 FR 44584), which contained some of these same proposals, stated that use of the forms was permitted while the proposals were pending.

[4] See Securities Act Release No. 5092 (October 15, 1970) (35 FR 16733).

RULE AS TO USE OF FORM S–7 (AND FORM S–16)[5]

Registrant Must Be Subject to Exchange Act. The Rule as to Use of Form S–7 presently requires that a registrant have a class of equity securities registered pursuant to Section 12(b) of the Exchange Act or be a domestic registrant with a class of equity securities registered pursuant to Section 12(g) of that Act. The amendments adopted today make two changes in this requirement, the first of which was proposed in Securities Act Release No. 5613. It makes the form available to registrants with any class of securities, debt or equity, registered pursuant to Section 12(b) of the Exchange Act. Secondly, in response to numerous comments, the Commission has determined to make the form available for use by domestic registrants which are required to file reports pursuant to Section 15(d) of the Exchange Act. Both of these changes reflect the fact that through reports filed with the Commission pursuant to Section 13 of the Exchange Act, the information available concerning such registrants is substantially similar to the information available concerning registrants which were previously permitted to use the form. This is particularly so in light of the information concerning the management and principal shareholders of a registrant required to be included in Part II of reports on Form 10–K (17 CFR 249.310) by registrants which have not filed proxy or information statements pursuant to Regulation 14A (17 CFR 240.14a–1 to 240.14a–103) or Regulation 14C (17 CFR 240.14c–1 to 240.14c–101).[6] However, in light of the fact that the Form 10–K may not be disseminated to the public as widely as other corporate disclosure documents, there has been added to the form a new requirement to paragraph (b) of the Rule and a new undertaking which relate solely to registrants subject to Section 15(d) of the Exchange Act.

Registrant Must Comply with Requirements of Exchange Act. In order to meet the present condition to the use of Form S–7, a registrant must have complied in all respects, including timeliness, with the requirements of Sections 13 and 14 of the Exchange Act for three fiscal years prior to the filing of the registration statement.

The amendments adopted today modify the provision to require that the registrant have been subject to Section 12 or 15(d) of that Act[7] and have filed all material required thereunder for at least thirty-six calendar months prior to the filing of the registration statement. This amendment makes Form S–7 available to a wider range of registrants by allowing companies filing reports pursuant to Section 15(d) to use it and by slightly reducing the applicable time period. At the same time, however, these changes, along with those discussed below relating to registrants subject to Section 15(d), will continue to assure that sufficient information about registrants using the form is available to the investing public through the Exchange Act reporting system.

In addition, the period during which all such reports must have been timely filed would be reduced from "three fiscal years" to "twelve calendar months."[8] This change is intended to simplify the determination of whether the timeliness requirement is met, and, at the same time, provide sufficient incentive to registrants to file all required reports when due. Generally, the staff will strictly enforce this condition to the use of Form S–7, since the timely filing of the required reports under the Exchange Act is essential to ensure the availability to the public of current and adequate information concerning registrants.[9]

To ensure that certain information concerning registrants which only have an obligation to file reports pursuant to Section 15(d) of the Exchange Act becomes more widely available to the investing public, the Commission has determined that in order to use the Form S–7, such registrants must furnish a report to all of their security holders who own a class of securities which has the subject of a registration statement declared effective pursuant to the Securities Act. Such a report must have been sent to all such security holders in the twelve months prior to the filing of the registration statement on the form. In addition, the registration statement on Form S–7 must contain an undertaking to send such reports to all those security holders who own a class of securities which has been the subject of an effective registration statement for that period of time during which the registrant remains under an obligation to file reports pursuant to Section 15(d).[10] The report shall contain all the information called for by Rule 14a–3(b) (17 CFR 240.14a–3(b)) which an issuer subject to Section 14 must include in its annual report to shareholders and, in addition thereto, the information relating to directors and the remuneration and transactions with the registrant of management and principal shareholders called for by Part II of Form 10–K. The Commission believes that this additional disclosure relating to registrants subject to Section 15(d) of the Exchange Act who wish to use this optional short registration form is justified since similar disclosure is required of registrants subject to Section 14 of the Exchange Act and will provide more widely available information concerning them to the investing public.

Elimination of Continuity of Management Requirement. The Commission has eliminated the requirement that a majority of the existing board of directors of the registrant has held that office for the last three fiscal years as a condition to the use of Form S–7.

In recent years, the staff has received and granted numerous requests for waivers of this condition in circumstances where registrants have been unable to meet the requirement because, for example, of recent increases in the size of the board of directors or because of turnover on the board due to the death or retirement of directors. In light of this experience, the Commission believes that the requirement is unnecessarily restrictive and that registrants should not be precluded from using the form simply because there has been a change in the majority of the board of directors.

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[5] The Rule as to Use of Form S–16 provides that the form is available for registration under the Securities Act of certain securities of registrants which meet the requirement for the use of Form S–7 at the time the registration statement is filed. Thus, the amendments to the Rule as to Use of Form S–7 automatically amend the Rule as to Use of Form S–16. See General Instruction A to Form S–16 (17 CFR 239.27(a)).

[6] The Commission has proposed for comment amendments to certain of the forms under both the Securities Act and the Exchange Act and the proxy rules to provide more meaningful disclosure regarding the background of management. See Securities Act Release No. 5758 (November 2, 1976) (41 FR 49493).

[7] All such registrants must file the reports required by Section 13 of the Exchange Act. Since Section 14 of the Exchange Act is applicable only to issuers whose securities are registered pursuant to Section 12, issuers filing reports pursuant to Section 15(d) are not required to file proxy statements pursuant to Regulation 14A or information statements pursuant to Regulation 14C, although similar information is contained in Part II of their Form 10–Ks, as noted above. Wholly-owned subsidiaries with debt securities registered pursuant to Section 12(b) or preferred stock registered pursuant to Section 12(g) are subject to Section 14, although normally they have no proxy solicitations subject to Regulation 14A or 14C. Such registrants may nonetheless use Form S–7 or S–16 if they meet the other conditions as to their use. Of course, if such a registrant were to solicit proxies, consents or authorizations with respect to a class of securities registered under Section 12, Section 14 of the Exchange would be applicable and must have been complied with in order to use the forms.

[8] A report filed within the time granted pursuant to a request for an extension of time under Exchange Act Rule 12b–25 (17 CFR 240.12b–25) shall be considered timely filed.

[9] In this connection, the Commission wishes to remind registrants that Exchange Act Rule 0–3 (17 CFR 240.0–3) provides that the "date on which papers are actually received by the Commission shall be the date of filing. * * *" The Commission recognizes, however, that on rare occasions a document sent to the Commission in a timely fashion may arrive shortly after the required filing date because of circumstances beyond the control of the registrant. In such cases, the staff may, in its discretion, accept the registration statement for filing where to do so is consistent with the public interest and the protection of investors. See Securities Act Rule 401 (17 CFR 230.401).

[10] The registrant remains subject to Section 15(d) of the Exchange Act unless the duty to file is suspended because it has any class of securities registered pursuant to Section 12 of the Exchange Act or because, at the beginning of a fiscal year other than the fiscal year in which the registration statement became effective, the securities of each class to which the registration statement related are held of record by less than three hundred persons.

The Commission believes, nevertheless, that where there has been a recent change in control of the registrant, certain additional disclosure may be necessary in the Form S–7 or S–16 prospectus. See the discussion below concerning the new Item 10 of Form S–7 and the amended Item 9 of Form S–16.

No-Default Requirement. The amendment adopted today reduces from "ten years" to "thirty-six calendar months" the period during which the registrant and its subsidiaries may not have defaulted in the payment of any dividend or sinking fund installment on preferred stock, or in the payment of any principal, interest or sinking fund installment on any indebtedness for borrowed money, or in the payment of rentals under material long term leases, as a condition to use of the form.

This amendment makes the following changes from the proposal contained in Securities Act Released 5728. There is minor clarification of the relevant time period by indicating that it is "thirty-six calendar months" rather than "three years." The proposal stated that the condition relates to a default "on any indebtedness or borrowed money," rather than "on any indebtedness for borrowed money," which is the language presently in the form. Many commentators stated that this could be interpreted to include such things as a late payment on an ordinary trade account or installment sales contract, which could arise from clerical error or a good faith dispute with a supplier. Such a reading of the condition would unduly restrict the use of Form S–7, would not necessarily reflect a weakening of the registrant's financial position, and would, in any event, entail a laborious and time-consuming search to determine if it had occurred in the course of a routine business transaction. Therefore, the Commission has determined to retain the present language, which has been in the form since its adoption in 1967[11] and which has not resulted in any significant problems in its administration.

It also should be noted that the term "default" as used herein has been, and will continue to be, interpreted to include the failure to pay a dividend on preferred stock. Such a default cannot be remedied for purposes of this requirement by a subsequent payment of the missed dividend.

Minimum Earnings Requirement. The present Rule as to Use of Form S–7 requires that the issuer and its subsidiaries have had a net income, after taxes but before extraordinary items, of at least $500,000 for each of the last five fiscal years. The amendments adopted today are identical to the proposals and reduce the minimum earnings required to "$250,000 for three of the last four fiscal years, including the most recent fiscal year," and provide that the "cumulative effect of a change in accounting principle" shall be excluded in determining net income.

Elimination of Earned Dividends Requirement. The Rule as to Use of Form S–7 presently requires that if the securities to be registered are common stock or are convertible into common stock, the registrant shall have earned, in each of the last five fiscal years, any dividend paid in such years. The Commission, as it proposed, has eliminated this requirement as a condition to the use of Form S–7.

Use of Form S–7 by a Successor Registrant. The proposed amendments provided that a registrant shall be deemed to have met the conditions to use of Form S–7 relating to Exchange Act reporting, defaults and net income only if it and any predecessor[12] taken together do so and further if (1) the succession[13] was primarily for the purpose of changing the state of incorporation of the predecessor or forming a holding company and (2) the assets and liabilities of the successor at the time of succession was substantially the same as those of the predecessor. The Commission has determined to adopt this amendment as proposed with a further provision to indicate that a registrant shall be deemed to meet these conditions if all of its predecessors did so at the time of succession and the registrant has continued to do so since the succession, regardless of the purpose of the succession.

Use of Form S–7 Where Securities Guaranteed by Parent. In the past, the staff has generally accepted the use of Form S–7 to register securities of a registrant which does not meet the Rule as to Use of Form S–7 if the securities of a majority-owned subsidiary were fully guaranteed as to principal and interest by its parent and the parent met the conditions of the rule. In response to public comment, this position has been codified in new General Instruction A(f). The Commission believes that since in these circumstances investors are primarily relying on the guarantee by the parent issuer, Form S–7 should be available and the disclosure concerning the subsidiary issuer may comply with the requirements of Form S–7, even though it does not itself meet the conditions of the Rule as to Use.[14]

USE OF FORM S–7 IN EXCHANGE OFFERS

Presently, Form S–7 may be used only to register securities to be offered for cash. The Commission has determined, as proposed, to make the form available for the registration of securities to be offered in exchange for other securities of the registrant or securities of any other person. It has also determined to allow the use of the form for an offer to exchange the securities of the registrant for the assets of another person, although Form S–14 (17 CFR 239.23) will continue to be required for the registration of securities if Rule 145 (17 CFR 230.145) is applicable to the transaction.[15]

A new Instruction G is being added to Form S–7 which requires additional information to be included in a prospectus covering securities of the registrant to be offered in exchange for the assets or securities of any other person. Part of this additional information relates to the management of the registrant and its principal security holders and their transactions with the registrant. Although this information is not normally required in a Form S–7 prospectus, it is felt that it is necessary where the securities being registered are offered in exchange for the assets or securities of another person. These exchange offers are often accompanied by premium prices, relatively high brokers' commissions and extra selling efforts and the security holders of the subject company may be required to accept the offer or become minority shareholders in a company controlled by the registrant or be forced to exercise appraisal rights; under these circumstances, it is felt that such offerees should not have the burden of obtaining the registrant's Exchange Act filings in order to see the information concerning the management of the registrant. Also, any substantial interest in the subject company held by the registrant or any affiliate[16] of the registrant or by any officer, director or principal shareholder of the registrant, as well as by any associate[17] of such person, must be described.

Paragraph (b) of Instruction G requires that the prospectus include information concerning the person whose assets or securities are the subject of the exchange offer which is identical to the information required by Items 6 to 10 and 12 of Form S–1 (17 CFR 239.11), except in cases where such other person also is eligible to use Form S–7. If such other person is eligible to use Form S–7, the prospectus may include the information concerning it called for by Items 5, 6, 10 and 12 of Form S–7. In either case, if securities of such other person are to be exchanged or cancelled in the exchange or otherwise, such securities must also be described in accordance with the

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[11] Securities Act Release No. 4886 (November 29, 1967) (32 FR 17933).

[12] See Securities Act Rule 405(o) (17 CFR 230.405(o)) for the definition of "predecessor."

[13] See Securities Act Rule 405(v) (17 CFR 230.405(v)) for the definition of "succession."

[14] In the case of a guarantee of a security, both the company whose security is guaranteed and the gurantor are deemed to be issuers for purposes of the Securities Act, since the guarantee is itself a "security" as defined in Section 2(1) of the Securities Act.

[15] Since Form S–7 will now be available for use in exchange offers for the securities or assets of another person, it may be used for a "shelf" registration to the same extent as Form S–1 (17 CFR 239.11). See Guide 4(a) of the Guides, letters of the Division of Corporation Finance re Beatrice Foods Co. (January 17, 1973) and Whittaker Corporation (March 30, 1976), and Securities Act Release No. 5510 (July 3, 1974) (39 FR 26719).

[16] See Securities Act Rule 405(a) (17 CFR 230.405(a)) for the definition of an "affiliate."

[17] See Securities Act Rule 405(b–1) (17 CFR 230.405(b–1)) for the definition of an "associate."

appropriate Items of the applicable form. In addition, the paragraph refers to Item 11(d) of Form S–7, which requires financial statements concerning the other person identical to those which would be required in a registration statement on Form S–1. However, if such other person also meets the conditions as to use of Form S–7, only those financial statements called for by Form S–7 are required for such other person. Relevant portions of the Instructions as to Financial Statements of Form S–1 relating to future successions to other businesses have been added to Items 11(d) (2) and (3) of Form S–7 since Form S–7 is now available for use in exchange offers.

Paragraph (c) has been added to indicate that if the securities being registered are to be offered in exchange for the registrant's own securities, the securities to be surrendered must also be described in accordance with Items 7, 8 or 9 of the form.

AMENDMENTS TO DISCLOSURE ITEMS OF FORMS S–7 AND S–16

Item 5 (Business) of Form S–7. Item 5(b) of Form S–7 calls for disclosure of information concerning lines of business of the registrant or classes of similar products or services of the registrant for each of the past five fiscal years. In light of the amendments to the Rule as to Use of Form S–7, certain registrants eligible to use the form may not have been engaged in business for that period of time. Accordingly, the Commission has amended Item 5(b) to require disclosure of such information for the last five fiscal years or for each fiscal year the registrant and its predecessors have been engaged in business, whichever is less.

Item 6 (Statements of Income) of Form S–7. Item 6 of Form S–7 presently calls for audited income statements of the registrant for each of the last five fiscal years. The Commission has amended Instruction 1 in a manner similar to Item 5(b) described above to require income statements for each of the last five fiscal years, or for each year the registrant and its predecessors have been in existence, whichever is less. Also, it has determined to require audited income statements only for the three most recent fiscal years and for any subsequent interim period(s) for which an audited balance sheet(s) is included in the prospectus. Certain wording changes have been made from the proposal to make clear that statements for an interim period(s) need be audited only if an audited balance sheet(s) is provided for a period subsequent to the latest fiscal year and that in such an event the comparable prior period interim statements need not be audited.

Item 10 (Management and Others) of Form S–7.

Item 9 (Additional Information) of Form S–16. As discussed above, the continuity of management condition to the use of the forms has been eliminated. However, where there has been a recent change in control of the registrant within the meaning of Securities Act Rule 405(f) (17 CFR 230.405(f)), the Commission has included a requirement that certain additional disclosure concerning such change in control of the registrant and its management be made in the prospectus.

Accordingly, if there has been a change in control of the registrant within the past thirty-six months, new Item 10 of Form S–7 requires that the change in control be described. The proposed amendments indicated that the information called for by Items 16 to 20 of Form S–1 should be included in all Form S–7 prospectuses if there had been such a change in control. However, after consideration of the public comments, the Commission has determined that once a change in control within thirty-six months is disclosed in the Form S–7 prospectus, further information concerning management remuneration and transactions and principal shareholders is necessary only to the extent that it has not been "previously reported," as defined in Exchange Act Rule 12b–2 (17 CFR 240.12b–2). Items 16 to 20 of Form S–1 call for information concerning the registrant's directors and executive officers and their remuneration and options to purchase securities, principal holders of the registrant's securities, and the interest of management and others in certain transactions with the registrant.

Form S–16 has been amended to indicate that if there has been a change in control within the meaning of Securities Act Rule 405(f) within the past thirty-six months, a description of the change in control and the information contained in Items 16 to 20 of Form S–1 must be contained in the prospectus only to the extent not previously reported, as defined in Exchange Act Rule 12b–2.

To reflect these changes, present Items 10 and 11 of Form S–7 have been renumbered as Items 11 and 12, respectively, and present Item 9(b) of Form S–16 has been renumbered as Item 9(c). Also, it is indicated in renumbered Item 12(b) of Form S–7 and Item 9(c) of Form S–16 that the prospectus shall state that reports, proxy statements and other information filed by the registrant can be inspected and copied at certain of the Commission's Regional Offices as well as at its office in Washington and that all mail requests for copies of such information should be directed to the Commission's Public Reference Section. The current address of each such facility, as indicated in 17 CFR 200.11 [13] and 200.80 (c)(1), shall be set forth in the prospectus.

RESCISSION OF FORM S–9

Form S–9 is a form available for the registration under the Securities Act of non-convertible, fixed interest debt securities by registrants required to file reports pursuant to Section 13 or 15(d) of the Exchange Act and which meet certain other conditions, including minimum fixed charges coverage standards. Form S–9 has been used only by a very small number of registrants in recent years, in part because recent increases in interest rates have made it difficult for many registrants to meet the minimum fixed charges coverage standards.

The Commission has determined to rescind Form S–9. It believes that virtually all registrants who have used the form are eligible to use Form S–7, as amended, for the registration of debt securities. This is particularly so in light of the fact that Form S–7 is now available for use by registrants filing reports pursuant to Section 15(d) of the Exchange Act.

AMENDMENT TO GUIDE 30

The Guides are not rules of the Commission nor are they published as bearing the Commission's approval; they represent policies and practices followed by the Commission's Division of Corporation Finance in administering the disclosure requirements of the Federal securities laws.

Guide 30 presently calls for disclosure of the principal sources of electric revenues on Form S–9. Since Form S–9 is hereby rescinded and electric utilities will now file registration statements on Form S–1 or S–7, the Guide has been amended to become applicable in such cases. This is consistent with the present practice of the staff of the Division of Corporation Finance. Also consistent with such practice, Guide 30 has been amended to be applicable to gas utilities.

ADOPTION OF AMENDMENTS AND RESCISSION

The Commission hereby adopts the amendments to Forms S–7 and S–16 and to Guide 30 and rescinds Form S–9 pursuant to the Securities Act of 1933, particularly Sections 6, 7, 10 and 19(a) thereof. This action is effective December 28, 1976. The text of the amendments to Forms S–7, S–16 and S–9 and to Guide 30 follows.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 20, 1976.

ADOPTION OF AMENDMENTS

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. *Text of Amendments to Form S–7*

Form S–7 (17 CFR 239.26) is amended to read as follows:

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers.

GENERAL INSTRUCTIONS

A. *Rule as to Use of Form S–7.* Any registrant which meets the following conditions may use this form for registration of securities under the Securities Act of 1933:

(a) The registrant (1) has a class of securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934; or (2) is organized under the laws of the United States or any State or Territory or the District of Columbia, has its principal business operations in the United States or its Territories and has a class of equity securities

[13] Securities Act Release No. 5746 (September 30, 1976) (41 FR 44695) amended 17 CFR 200.11 to state the current addresses of the Commission's Regional Offices.

registered pursuant to Section 12(g) of the above Act or is required to file reports pursuant to Section 15(d) of the above Act.

(b) The registrant (1) has been subject to the requirements of Section 12 or 15(d) of the Securities Exchange Act of 1934 and has filed all the material required to be filed pursuant to Sections 13, 14 or 15(d), as applicable, for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this form; (2) has filed in a timely manner all reports required to be filed during the twelve calendar months preceding the filing of the registration statement; and (3) if subject only to the requirements of Section 15(d) of the Securities Exchange Act of 1934, has sent to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by Rule 14a-3 (b) (17 CFR 240.14a-3(b)) and Part II of Form 10-K (17 CFR 249.310) under the Securities Exchange Act of 1934 within the twelve calendar months preceding the filing of the registration statement.

(c) The registrant and its subsidiaries have not during the past thirty-six calendar months defaulted in the payment of any dividend or sinking fund installment on preferred stock, or installment on any indebtedness for borrowed money, or in the payment of rentals under long term leases.

(d) The registrant and its consolidated subsidiaries had a net income, after taxes but before extraordinary items and cumulative effect of a change in accounting principle net of tax effect, of at least $250,000 for three of the last four fiscal years, including the most recent fiscal year.

(e) A registrant shall be deemed to have met conditions (b), (c) and (d) above if (1) its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the State of incorporation of the predecessor or forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (2) if all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

(f) This form may be used for the registration of securities of a majority-owned subsidiary which are fully guaranteed as to principal and interest by its parent if the parent meets the above conditions, notwithstanding the failure of the subsidiary issuer to meet such conditions.

B.–F. (No change.)

G. *Exchange Offers.* (a) If any of the securities being registered are offered in exchange for assets or securities of any other person, the prospectus shall include, in addition to the other information called for by this form, the information concerning the registrant called for by Items 16, 17, 19 and 20 of Form S-1 (17 CFR 239.11). Describe any substantial interest in the other person, direct or indirect, by security holdings or otherwise, held within the past three years by the registrant or by each affiliate of the registrant or by any officer, director or security holder of the registrant named in answer to Item 19(a) of Form S-1 (17 CFR 239.11) or by each associate of such person.

(b) Except as stated below, the prospectus shall also include the information concerning the other person required by Items 6 to 10, inclusive, and 12 of Form S-1 (17 CFR 239.11) and, if securities of such other person are to be surrendered or cancelled pursuant to the exchange or otherwise, by Items 13 to 15, inclusive, of Form S-1 (17 CFR 239.11) as if such securities were being registered on that form. Reference is made to Item 11(d) of this form for information concerning the necessity of furnishing financial statements of such other person. In the event the other person also meets the conditions set forth in General Instruction A to this form, the prospectus may include, in lieu of the above information concerning such other person, the information required by Items 5, 6, 10 and 12 of this form and, if securities of such other person are to be surrendered or cancelled pursuant to the exchange or otherwise, by Items 7 to 9, inclusive, of this form as if such securities were being registered on this form. In this event, Item 11(d) may be complied with by furnishing only those financial statements concerning such other person which would be required if it were registering securities on this form. In connection with this instruction, reference is made to Rules 409 (17 CFR 230.409) and 434B (17 CFR 230.434b) under the Securities Act of 1933.

(c) If any of the securities being registered are offered in exchange for outstanding securities of the registrant, the prospectus shall include the information called for by Items 7 to 9, inclusive, of this form as if such outstanding securities were being registered on this form.

H. *Preparation of Part II.* (No change from former General Instruction G.)

I. *Notice of Intention to File the Registration Statement.* (No change from former General Instruction H.)

PART I. INFORMATION REQUIRED IN PROSPECTUS

Item 1.–Item 4. (No change.)

Item 5. Business. (a) (No change.)

(b) (1) *Information as to lines of business.* If the registrant and its subsidiaries are engaged in more than one line of business, state, for each of the registrant's last five fiscal years, or for each fiscal year the registrant and its predecessors have been engaged in business, whichever period is less, the approximate amount or percentage of (i) total sales and revenues, and (ii) income (or loss) before income taxes and extraordinary items, attributable to each line of business which during either of the last two fiscal years accounted for—

(A) 10 percent or more of the total of sales and revenues,

(B) 10 percent or more of income before income taxes and extraordinary items computed without deduction of loss resulting from operations of any line of business, or

(C) a loss which equalled or exceeded 10 percent of the amount of income specified in (B) above; *provided*, that if total sales and revenues did not exceed $50,000,000 during either of the last two fiscal years, the percentages specified in (A), (B) and (C) above shall be 15 percent, instead of 10 percent. (No further change in Item 5.)

Item 6. Statements of Income. Furnish in comparative columnar form statements of income for the registrant, or for the registrant and its subsidiaries consolidated, or both, as appropriate, for—

(a) each of the last five fiscal years of the registrant (or for the life of the registrant and its predecessors, if less), and

(b) any interim period between the end of the most recent fiscal year and the date of the most recent balance sheet(s) being filed pursuant to Item 11(a) and for the corresponding interim period of the preceding fiscal year, and

(c) any additional fiscal years necessary to keep the statements from being misleading.

Where necessary, include information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the prospectus. A statement of source and application of funds shall be furnished for each fiscal year or other period for which a statement of income is required to be furnished.

Instructions. 1. The statements required shall be prepared in compliance with the applicable requirements of Regulation S-X (17 CFR Part 210) and shall be audited for each of the last three fiscal years and for any subsequent interim period to the date of the most recent audited balance sheet(s) included in the prospectus. Regulation S-X (17 CFR Part 210) governs the examination and the form and content of such statements, including the basis of consolidation, and prescribes the statements of retained earnings and other stockholders' equity and the schedules to be filed.

2.–9. (No change.)

10. Statements of income and source and application of funds conforming with the foregoing and statements of retained earnings and other stockholders' equity shall be furnished, here or elsewhere in the prospectus, for each subsidiary or group of subsidiaries or 50 percent or less owned persons for which a balance sheet is furnished in response to Item 11(b).

Item 7.—Item 9. (No change.)

Item 10. Management and Others. If there has been a change in control of the registrant within the past thirty-six calendar months, describe the change in control and provide any information called for by Items 16 to 20, inclusive, of Form S-1 (17 CFR 239.11) which has not been "previously reported" as defined in Rule 12b-2 (17 CFR 240.12b-2) under the Securities Exchange Act of 1934.

Item 11. Other Financial Statements and Schedules. (a)–(c) (No change from paragraphs (a) to (c) of former Item 10.)

(d) *Future Successions to Other Businesses.* (1) (No change from subparagraph (d) (1) of former Item 10.)

(2) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control. In addition, the acquisition of securities which will extend the registrant's control of a business shall be deemed the acquisition of the business if any of the securities being registered hereunder are offered in exchange for the securities to be acquired.

(3) No financial statements need be filed, however, for any business acquired or to be acquired, or for any business in which an investment acquired or to be acquired is required to be accounted for by the equity method, from a totally held subsidiary. In addition, the statements of any one or more such businesses may be omitted if the businesses, considered in the aggregate, would not meet the test of a significant subsidiary; provided that the statements of any business may not be omitted where any of the securities being registered are offered in exchange for securities representing such business or for assets of such business.

(e) (No change from paragraph (e) of former Item 10.)

Item 12. Statement of Available Information. (a) (No change from paragraph (a) of former Item 11.)

(b) The statement shall also indicate that such reports, proxy statements and other information can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C. and at certain of its Regional Offices, stating the current address of each such facility (see 17 CFR 200.11(b) and 17 CFR 200.80(c)(1)), and that copies of such material can be obtained from the Public Reference Section of the Commission at Washington, D.C. 20549

at prescribed rates. In addition, any national securities exchange on which the registrant's securities are listed, and where reports, proxy statements and other information concerning the registrant can be inspected, shall be named.

PART II. INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution. (No change from former Item 12.)

Item 14. Relationship with Registrant of Experts Named in Registration Statement (No change from former Item 13.)

Item 15. Indemnification of Directors and Officers. (No change from former Item 14.)

Item 16. Treatment of Proceeds from Stock to be Registered. (No change from former Item 15.)

Item 17. Other Documents Filed as a Part of the Registration Statement. (No change from former Item 16.)

UNDERTAKINGS

A.–C. (No change.)

D. The following undertaking shall be included in the registration statement if the registrant is subject only to the requirements of Section 15(d) of the Securities Exchange Act of 1934:

"The undersigned registrant hereby undertakes, so long as it remains subject to a duty to file under Section 15(d) of the Securities Exchange Act of 1934, to send to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by Rule 14a-3(b) (17 CFR 240.14a-3(b)) and Part II of Form 10-K (17 CFR 249.310) under the Securities Exchange Act of 1934."

SIGNATURES

(No change.)

INSTRUCTIONS AS TO EXHIBITS

Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for by Item 17.

1.–3. (No change.)

4. Copies of all indemnification contracts or arrangements described in answer to Item 15.

5.–6. (No change.)

INSTRUCTIONS AS TO SUMMARY PROSPECTUSES

1. A summary prospectus used pursuant to Rule 434A (17 CFR 230.434a) shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a)–(j) (No change.)

(k) As to Item 11, a tabular presentation of notes payable, long term debt, deferred credits, minority interests, if material, and the equity section of the latest balance sheet filed, as may be appropriate.

2. The summary prospectus shall not contain a summary or condensation of any of the financial information required by Item 11, except as required by Instruction 1(k) above.

3. (No change.)

2. *Text of Amendments to Form S-16.* Form S-16 (17 CFR 239.27) is amended to read as follows:

§ 239.27 Form S-16, optional form of registration of certain offerings of outstanding securities and of offerings to holders of certain convertible securities and of offerings to holders of certain outstanding warrants.

GENERAL INSTRUCTIONS

(No change.)

PART I. INFORMATION REQUIRED IN PROSPECTUS

Item 1.–Item 8. (No change.)

Item 9. Additional Information (a) (No change.)

(b) If there has been a change in control of the registrant within the past thirty-six calendar months which has not been "previously reported" as defined in Rule 12b-2 (17 CFR 240.12b-2) under the Securities Exchange Act of 1934, describe the change in control and provide any information called for by Items 16 to 20, inclusive, of Form S-1 (17 CFR 239.-11) which has not been "previously reported."

(c) State that reports, proxy statements and other information filed by the registrant can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C. and at certain of its Regional Offices, stating the current address of each such facility (see 17 CFR 200.11(b) and 17 CFR 200.80(c)(1)), and that copies of such material can be obtained from the Public Reference Section of the Commission, Washington, D.C. 20549 at prescribed rates. In addition, any national securities exchange on which the registrant's securities are listed, and where reports, proxy statements and other information concerning the registrant can be inspected, shall be named.

(No further change in Form S-16.)

3. *Rescission of Form S-9.*

§ 239.22 [Rescinded]

17 CFR 239.22 (Form S-9), for the registration of certain debt securities, is rescinded in its entirety.

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

4. *Text of Amendments to Guide 30.* Guide 30 of the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933, Securities Act Release No. 4936 (December 9, 1968) (33 FR 18617), as amended, is amended to read as follows:

30. *Disclosure of Principal Sources of Electric or Gas Revenues.* In registration statements filed on Form S-1 or S-7 by electric or gas utilities, the principal classes of service from which electric or gas revenues are derived should be furnished.

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; 15 U.S.C. 77f, 77g, 77j, 77s(a).)

[FR Doc.76-38057 Filed 12-27-76;8:45 am]

Title 20—Employees Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

Services for Veterans; Correction

In the FEDERAL REGISTER document 76-31944 appearing at 41 FR 48250 et seq. on November 2, 1976, the following corrections are made:

1. On p. 48251, column 1, in the third sentence of § 653.200, paragraph (b), the words "Section 653.212(f)" are corrected to read "Section 653.221(a)(7)(i) of this subpart."

2. On p. 48251, column 3, in the definition of "Disabled Veteran," the phrase "for a disability rated at less than 30 per centum" is deleted.

3. On p. 48251, column 3, in the definition of "Regional Veterans' Employment Representative (RVER)", the phrase "under the RA" and the commas setting off that phrase are deleted. In addition, the following sentences are added at the end of the definition: "The RVER shall report to, be responsible to, and be under the administrative direction of the Director, VES. In addition, the RVER shall report to, be responsible to, and be under the operational direction of the RA."

4. On p. 48251, column 3, in the definition of "State Veterans' Employment Representative (SVER)," the phrase "under the RA and the RVER" is corrected to read "under the RVER."

5. On p. 48252, column 2, paragraph (b) of § 653.213 is corrected to read: "An RVER shall be stationed in each ETA regional office. The RVER shall be a member of the ETA regional executive staff."

6. On p. 48252, column 3, in paragraph (d) of § 653.214, the phrase "Under the direction and supervision of the RA and the RVER" is corrected to "Under the direction and supervision of the RVER."

7. On p. 48253, column 3, in § 653.221(a)(7)(i) the phrase "(3) Qualified disabled veterans;" is corrected to read "(3) Qualified disabled veterans other than special disabled veterans;".

8. On p. 48254, column 1, paragraph (e) is deleted, paragraph (f) is re-lettered as (e), and paragraph (g) is deleted.

9. On p. 48254, column 2, in paragraph (d) of § 653.224, the phrase "duties prescribed for the LVER" is corrected to read "duties prescribed for the SVER."

10. On p. 48255, in § 653.230, the introductory text of paragraph (f)(2) is corrected by changing the words "referred to" to "enrolled in" both times they appear.

Signed at Washington, D.C. this 16th day of December, 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-37881 Filed 12-27-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 76N-0367]

PART 8—COLOR ADDITIVES

FD&C Red No. 4; Confirmation of Effective Date

The Food and Drug Administration is confirming the effective date of October 27, 1976, of an order concerning the

use of FD&C Red No. 4 in externally applied drugs and cosmetics.

An order was published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41854) that, inter alia, added §§ 8.4103 and 8.7163 (21 CFR 8.4103 and 8.7163) to provide for safe use of FD&C Red No. 4 in externally applied drugs and cosmetics. The order of September 23, 1976, also amended the identity and specifications for FD&C Red No. 4 under § 9.63 (21 CFR 9.63) to reference § 8.4103.

Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 41 FR 24262)), notice is given that no objections or requests for hearing were filed in response to the order of September 23, 1976. Accordingly, the amendments promulgated thereby became effective on October 27, 1976.

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-37958 Filed 12-27-76;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0435]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Sterile Neomycin Sulfate and Polymyxin B Sulfate Solution; Preservative Added

The Food and Drug Administration (FDA) is amending the oligosaccharide antibiotic drug regulations to provide for the use of a preservative in sterile neomycin sulfate-polymyxin B sulfate solution; effective December 28, 1976.

The Commissioner of Food and Drugs has approved a request submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, as amended, with respect to the marketing of a multiple-dose vial of sterile neomycin sulfate-polymyxin B sulfate aqueous solution. Because of the multiple-dose characteristics of this sterile drug product, a preservative is necessary to prevent the growth of microorganisms. The use of a preservative in such multiple-dose vials is consistent with the requirements of The United States Pharmacopeia.

The Commissioner concludes that the regulation under which this drug product is currently being certified should be amended to provide for the use of the preservative.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 444 is amended in § 444.942b by inserting a new sentence after the first sentence of paragraph (a) (1); as revised, § 444.942b (a) (1) reads as follows:

§ 444.942b Sterile neomycin sulfate and polymyxin B sulfate solution.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* Sterile neomycin sulfate and polymyxin B sulfate solution is an aqueous solution containing in each milliliter 40 milligrams of neomycin and 200,000 units of polymyxin B. If packaged in a multiple-dose container, it shall contain a suitable and harmless preservative. It is sterile. Its pH is not less than 5.0 and not more than 6.0. The neomycin sulfate used conforms to the standards prescribed by § 444.42a(a)(1)(i), (iv), (vi), and (vii). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30a(a)(1)(i), (iv), (vi), (vii), and (ix) of this chapter. Each other substance used, if its name is recognized in the U.S.P. or the N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

As the conditions prerequisite to providing for certification of this drug have been complied with, and as the matter is noncontroversial in nature, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date: This regulation shall be effective December 28, 1976.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-37501 Filed 12-27-76;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Crystalline Trypsin, Peru Balsam, Castor Oil

The Food and Drug Administration approves a supplemental new animal drug application (31-555V) filed by Burns-Biotec Laboratories Division, Chromalloy Pharmaceuticals, Inc., 7711 Oakport St., Oakland, CA 94621, proposing the safe and effective use of crystalline trypsin, Peru balsam, castor oil aerosol spray for treating external wounds on horses, cattle, dogs, and cats. The approval is effective December 28, 1976.

The Commissioner of Food and Drugs is amending Part 524 (21 CFR Part 524) to reflect this approval.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(j))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 524 is amended in § 524.2620 by renumbering existing paragraphs (a) and (b) as (a) (1) and (2) and adding new paragraphs (b) (1) and (2) to read as follows:

§ 524.2620 Liquid crystalline trypsin, Peru balsam, castor oil.

(a) (1) *Specifications.* The drug is a liquid for direct application or an aerosol preparation formulated so that each gram delivered to the wound site contains 0.12 milligram of crystalline trypsin, 87.0 milligrams of Peru balsam, and 788.0 milligrams of castor oil.

(2) *Sponsor.* See No. 000514 in § 510.600(c) of this chapter.

(b) (1) *Specifications.* The drug is a liquid for direct application or an aerosol preparation formulated so that each gram delivered to the wound site contains 0.1 milligram of crystalline trypsin, 72.5 milligrams of Peru balsam, and 800 milligrams of castor oil.

(2) *Sponsor.* See No. 000845 in § 510.600(c) of this chapter.

* * * * *

Effective date. This amendment shall be effective December 28, 1976.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 306b (i)).)

Dated: December 17, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76-37959 Filed 12-27-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. R-76-430]

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Servicing Companies

The purpose of this revision in to provide a convenient list of servicing companies and to make certain other technical amendments to this part.

Because the revision is for the convenience of the public, it is unnecessary to provide for notice and public procedure. However, good cause does exist for making these revisions effective December 28, 1976.

Accordingly, Subchapter B of Chapter X of Title 24 is amended by revising § 1912.7 as follows:

§ 1912.7 Servicing companies.

The following servicing entities have been designated to act as servicing companies for the Association in the areas indicated:

SERVICING COMPANIES

ALABAMA

The Hartford Insurance Group, Atlanta Center, 250 Piedmont Avenue, N.W., P.O. Box 1720, Atlanta, Georgia 30308, (404) 658-1414.

ALASKA

Industrial Indemnity Company of Alaska, P.O. Box 307, Anchorage, Alaska 99510, (907) 279-9441.

ARIZONA

Aetna Technical Services, Inc., 3225 North Central Avenue, Phoenix, Arizona 85012, (602) 264–3821.

ARKANSAS

The Travelers Indemnity Company, 700 South University, P.O. Box 51, Little Rock, Arkansas 72203, (501) 664–5085.

CALIFORNIA

Fireman's Fund American Insurance Co., P.O. Box 2323, Los Angeles, California 90051, (213) 381–3141.

COLORADO

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

CONNECTICUT

Aetna Insurance Company, P.O. Box 1779, Hartford, Connecticut 06101, (203) 523–4861.

D.C.—DISTRICT OF COLUMBIA

(See Virginia.)

DELAWARE

General Accident F&L Assurance Corp., Ltd., 414 Walnut Street, Philadelphia, Pennsylvania 19106 (215) 238–5512.

FLORIDA

The Travelers Indemnity Company, 1516 East Colonial Drive, Orlando, Florida 32803, (305) 896–2001, toll free: 800–432–4876.

GEORGIA

The Hartford Insurance Group, Atlanta Center, 250 Piedmont Avenue, N.W., P.O. Box 1720, Atlanta, Georgia 30308, (404) 658–1414.

HAWAII

First Insurance Co. of Hawaii, Ltd., P.O. Box 2866, Honolulu, Hawaii 96803, (808) 548–5511.

IDAHO

Aid Insurance Company, Snake River Division, 1845 Federal Way, Boise, Idaho 83701, (208) 343–4931.

ILLINOIS

State Farm Fire & Casualty Company, 2309 East Oakland Avenue, Bloomington, Illinois 61709, (309) 557–7337.

INDIANA

American States Insurance Company, 500 North Meridian Street, Indianapolis, Indiana 46204, (317) 262–6696.

IOWA

Employers Mutual Casualty Company, P.O. Box 884, Des Moines, Iowa 50304, (515) 280–2511.

KANSAS

Royal-Globe Insurance Companies, 5200 West 110th Street, P.O. Box 7600, Overland Park, Kansas 66207, (913) 341–7600.

KENTUCKY

CNA Insurance, 580 Walnut Street, Suite 1000, Cincinnati, Ohio 45202, (513) 579–9000.

LOUISIANA

Aetna Technical Services, Inc., 2025 Canal Street—Suite 210, New Orleans, Louisiana 70112, (504) 821–3626.

MAINE

Commercial Union Assurance Company, c/o Campbell, Payson & Noyes, 27 Pearl Street, Box 527 Pearl Street Station, Portland, Maine 04116, (207) 774–1431, toll free: 800–482–0131.

MARYLAND

U.S. Fidelity & Guaranty Company, P.O. Box 1138, Baltimore, Maryland 21203, (301) 547–3000, toll free: 800–492–1966.

MASSACHUSETTS (EASTERN)

Commercial Union Assurance Company, 1 Beacon Street, Boston, Massachusetts 02108, (617) 725–6128.

MASSACHUSETTS (WESTERN)

Aetna Insurance Company, P.O. Box 1779, Hartford, Connecticut 06101, (203) 523–4861.

MICHIGAN

Insurance Company of North America, 900 Tower Drive, Troy, Michigan 48098, (313) 879–5250, (313) 879–5254.

MINNESOTA (EASTERN)

The St. Paul Companies, 60 E. Marie Avenue, West St. Paul, Minnesota 55118, (612) 455–6600.

MINNESOTA (WESTERN)

The St. Paul Companies, 7900 Xerxes Avenue, South, Minneapolis, Minnesota 55431, (612) 835–2600.

MISSISSIPPI

The Travelers Indemnity Company, 5360 Interstate 55 North, P.O. Box 2361, Jackson, Mississippi 39205, (601) 956–5600.

MISSOURI (EASTERN)

MFA Insurance Company, 1817 West Broadway, Columbia, Missouri 65201, (314) 445–8441.

MISSOURI (WESTERN)

Royal-Globe Insurance Company, 5200 West 110th Street, P.O. Box 7600, Overland Park, Kansas 66207, (913) 341–7600.

MONTANA

The Home Insurance Company, 8 Third Street, North, P.O. Box 1031, Great Falls, Montana 59401, (406) 761–8110.

NEBRASKA

Royal-Globe Insurance Company, 5200 West 110th Street, P.O. Box 7600, Overland Park, Kansas 66207, (913) 341–7600.

NEVADA

The Hartford Insurance Group, P.O. Box 500, Reno, Nevada 89504, (702) 329–1061.

NEW HAMPSHIRE

Commercial Union Assurance Company, 1 Beacon Street, Boston, Massachusetts 02108, (617) 725–6128.

NEW JERSEY

Great American Insurance Company, 5 Dakota Drive, Lake Success, New York 11040, (201) 224–4200.

NEW MEXICO

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

NEW YORK

Great American Insurance Company, 5 Dakota Drive, Lake Success, New York 11040, (516) 775–6900.

NORTH CAROLINA

Kemper Insurance, 1229 Greenwood Cliff, Charlotte, North Carolina 28204, (704) 372–7150.

NORTH DAKOTA

The St. Paul Companies, The Hamm Building—Room 254, 408 St. Peter Street, St. Paul, Minnesota 55102, (612) 227–9581.

OHIO (NORTHERN)

Commercial Union Insurance Co., 1300 East 9th Street, Cleveland, Ohio 44114, (216) 522–1060.

OHIO (SOUTHERN)

CNA Insurance, 580 Walnut Street, Suite 1000, Cincinnati, Ohio 45202, (513) 579–9000.

OKLAHOMA

St. Paul Fire & Marine Insurance Co., 2000 Classen Center North, Oklahoma City, Oklahoma 73106, (405) 528–7041.

OREGON

State Farm Fire & Casualty Company, 4000 25th Avenue, N.E., Salem, Oregon 97303, (503) 393–0101.

PENNSYLVANIA

General Accident F&L Assurance Corp., Ltd., 414 Walnut Street, Philadelphia, Pennsylvania 19106, (215) 238–5512.

PUERTO RICO

Commonwealth Insurance Co., P.O. Box S–4471, San Juan, Puerto Rico 00905, (809) 723–4618.

RHODE ISLAND

American Universal Insurance Co., 144 Wayland Avenue, Providence, Rhode Island 02904.

SOUTH CAROLINA

Maryland Casualty Co., P.O. Box 11615, Charlotte, North Carolina 28209, (704) 525–8330.

SOUTH DAKOTA

The St. Paul Companies, The Hamm Building—Room 254, 408 St. Peter Street, St. Paul, Minnesota 55102, (612) 227–9581.

TENNESSEE

CNA Insurance, P.O. Box 410, 1101 Kermit Drive, Nashville, Tennessee 37217, (615) 367–0500.

TEXAS

St. Paul Fire & Marine Insurance Co., 2100 Travis Street, 9th Floor, Houston, Texas 77002, (713) 654–9984.

UTAH

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

VERMONT

Commercial Union Assurance Company, 1 Beacon Street, Boston, Massachusetts 02108, (617) 725–6128.

VIRGINIA

Insurance Company of North America, 5225 Wisconsin Avenue, N.W., Washington, D.C. 20015, (202) 244–2000.

WASHINGTON

Fireman's Fund American Insurance Co., 1000 Plaza—Building 600, 6th and Stewart, Seattle, Washington 98101, (206) 587–3200.

WEST VIRGINIA

U.S. Fidelity & Guaranty Co., 3324 McCorkle Avenue, S.E., Charleston, West Virginia 25304, (304) 344–1692.

WISCONSIN

Aetna Insurance Co., 5735 East River Road, Chicago, Illinois 60631, (312) 693–2500.

WYOMING

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

VIRGIN ISLANDS

(See Puerto Rico.)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: DECEMBER 20, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38064 Filed 12-27-76;8:45 am]

[Docket No. FI-365]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Cranston, Rhode Island

On June 7, 1976, at 41 FR 22814, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Cranston, Rhode Island. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of May 21, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 445396A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Cranston Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Cranston map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 17, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-37925 Filed 12-27-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Nassau Bay, Texas

On August 4, 1976, at 41 FR 32586, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Nassau Bay. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of July 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485491D and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Nassau Bay Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Nassau Bay map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-37922 Filed 12-27-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Seguin, Texas

On August 4, 1976, at 41 FR 32587, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Seguin, Texas. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of June 25, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended. (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485508B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Seguin Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Seguin map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-37921 Filed 12-27-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for Jefferson Parish, Louisiana

On August 4, 1976, at 41 FR 32584, the Federal Insurance Administrator published a notification of modification of

the base (100-year) flood elevations in Jefferson Parish. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of July 9, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 225199B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Jefferson Parish Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Jefferson Parish map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-37923 Filed 12-27-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the Town of Portsmouth, Rhode Island

On August 4, 1976, at 41 FR 32586, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Portsmouth, Rhode Island. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of July 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 445405B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Portsmouth Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Portsmouth map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amendet by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-37924 Filed 12-17-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of Arlington County, Virginia, Base Flood Elevations

On June 25, 1976, at 41 FR 26418, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of Arlington County, Virginia.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Arlington County. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 4 U.S.C. 40021-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 515520A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mr. Robert D. Arnold, Community Programs Administrator, Arlington County Department of Transportation, Systems Planning and Evaluation Division, 1400 Court House Road, Arlington, Virginia 22201.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Arlington County Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Arlington County map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: December 16, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38019 Filed 12-27-76;8:45am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of Kleberg County, Texas, Base Flood Elevations

On June 25, 1976, at 41 FR 26418, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of Kleberg County.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Kleberg County, Texas. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 480423A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

The Honorable W. C. McDaniel, County Judge, County of Kleberg, Kingsville, Texas 78363.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Kleberg County Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Kleberg County map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: December 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38018 Filed 12-27-76;8:45 am]

[Docket No. FI-1043]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the Borough of Bay Head, New Jersey

On April 21, 1976, at 41 FR 16654, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the Borough of Bay Head, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 19, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345281C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Borough of Bay Head Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Borough of Bay Head map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38011 Filed 12-27-76;8:45 am]

[Docket No. FI-1044]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the Borough of Seaside Park, New Jersey

On April 21, 1976, at 41 FR 16654, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the Borough of Seaside Park, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 19, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345319C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Borough of Seaside Park Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Borough of Seaside Park map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: November 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38013 Filed 12-27-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Alcoa, Tennessee

On August 11, 1976, at FR 3319, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the City of Alcoa, Tennessee. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elecations are effective as of July 30, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 475421A and must be used for all new policies and renewals.

Under the above-mentioned Act of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the City of Alcoa Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the City of Alcoa map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38015 Filed 12-27-76;8:45 am]

[Docket No. FI-1103]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Columbia, Tennessee

On May 19, 1976, at 41 FR 20571, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the City of Columbia, Tennessee. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 30, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 475423A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Columbia Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Columbia map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38016 Filed 12-27-76;8:45 am]

[Docket No. FI-1045]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Jamestown, North Dakota

On April 21, 1976, at 41 FR 16654, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the City of Jamestown, North Dakota. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 9, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 385366B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Jamestown Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Jamestown map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38014 Filed 12-27-76;8:45 am]

[Docket No. FI-1189]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Lenoir City, Tennessee

On May 24, 1976, at 41 FR 211189, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the City of Lenoir City, Tennessee. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of June 11, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title

XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 475438A and must be used for all new policies and renewals.

Under the above-mentioned Act of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elavations on the City of Lenoir City Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the City of Lenoir City map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-38017 Filed 12-27-76;8:45 am]

[Docket No. FI-1188]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of the City of Tarpon Springs, Florida, Base Flood Elevations

On June 25, 1976, at 41 FR 26406, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of the City of Tarpon Springs, Florida.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in the City of Tarpon Springs. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 120259A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any person having knowledge or wishing to comment on these changes should immediately notify:

Honorable Bill Lane, Mayor, City of Tarpon Springs, City Hall, Tarpon Springs, Florida 33589.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the City of Tarpon Springs Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the City of Tarpon Springs map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 17, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-38010 Filed 12-27-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the Township of Clark, New Jersey

On May 24, 1976, at 41 FR 211187, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the Township of Clark, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of May 14, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345290B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Township of Clark Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Township of Clark map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 17, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-38012 Filed 12-27-76;8:45 am]

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

[Docket No. R-76-109]

PART 1930—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Servicing Companies; Eligible States

The purpose of this revision to Parts 1930 and 1931, is to update § 1930.6 and § 1931.1, to provide a current list of servicing companies for the Federal Crime Insurance Program and to update the list of States eligible for the sale of crime insurance.

On the basis of the Administrator's continuing review of the crime insurance availability situation in the various States, and on the basis of findings and recommendations by the Governor and the Commissioner of Insurance, it has been determined that a critical market

unavailability situation exists in the States set forth in revised § 1931.1 and that as of the effective date of this regulation these States will be made eligible for the sale of crime insurance, or continue to be eligible for such sale. Because the sale of crime insurance is beneficial to the public, it is unecessary to provide for notice and public procedure, and good cause exists for making these amendments effective on January 1, 1977.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address:

Rules Docket Clerk, Department of Housing and Urban Development, Room 10141, 451 Seventh Street, SW, Washington, D.C.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

Accordingly, Subchapter C of Chapter X of Title 24 is amended as follows:

1. Section 1930.6 is revised to read as follows:

§ 1930.6 Names and addresses of servicing companies.

The following company has been designated to act as servicing company for the Federal Crime Insurance Program in the States indicated:

Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Kansas, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, Pennsylvania, Ohio, Rhode Island, Tennessee, and Virginia: Safety Management Institute, Federal Crime Insurance, P.O. Box 41033, Washington, D.C. 20410. SMI toll-free number is 800–638–8780. In Washington, D.C. Metropolitan Area call 652–2637. In Maryland, outside Washington, D.C. Metropolitan Area, call collect 301–652–2637.

2. Paragraph (b) of § 1931.1 is revised to read as follows:

§ 1931.1 States eligible for sale of crime insurance.

* * * * *

(b) On the basis of the information available, the Administrator has determined that the States set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal Crime Insurance Program therein. Accordingly, the program is in operation in the following States:

Arkansas	Massachusetts
Colorado	Minnesota
Connecticut	Missouri
Delaware	New Jersey
District of Columbia	New York
Florida	Ohio
Georgia	Pennsylvania
Illinois	Rhode Island
Kansas	Tennessee
Maryland	Virginia

* * * * *

(Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); Sec. 1103, 82 Stat. 566, 12 U.S.C. 1749bbb–17.)

Effective date: January 1, 1977.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76–38063 Filed 12–27–76;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Alaska; Approval of Revised Developmental Schedule

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) by which the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) under a delegation of authority from the Secretary of Labor (Secretary's Order 8–76, 41 FR 25059, June 22, 1976) will review changes in a State plan which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On August 10, 1973, a notice was published in the FEDERAL REGISTER (38 FR 25173) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision and a description of the plan.

Section 1952.243 of Subpart R sets forth the developmental schedule under which the plan will meet criteria of section 18(c) of the Act and Part 1902 within three years following commencement of the plan's operations. By letters dated September 17, 1975, February 10, 1976, and April 15, 1976, from Edmund N. Orbeck, Commissioner, State of Alaska Department of Labor, to James Lake, Regional Administrator for Occupational Safety and Health (hereinafter referred to as the Regional Administrator) and incorporated as part of the plan, the State has submitted a supplement to the plan containing a revised developmental schedule. The developmental schedule has been primarily revised to reflect different dates for completion of developmental steps because:

(a) The State plan narrative, appendices, letters of assurances and the Plan Approval Notice published in the FEDERAL REGISTER as Part 1952, Subpart R, all contained conflicting time schedules for the completion of various goals;

(b) Goals relating to adoption of administrative regulations and some standards were not completed by any of the conflicting dates contained in the plan document, primarily due to three changes in administration of the State program. The delays have not been detrimental to the State plan however. In the case of the administrative regulations, the State has been operating in accordance with procedures developed within 6 months of plan approval. In the case of standards, the State had existing standards, which in the professional judgment of the Regional Administrator provided overall protection comparable to the Federal standards in all issues, with the exception of Pulpmills. The State followed these standards until it promulgated State standards, which were approved by the Regional Administrator to be at least as effective as the comparable Federal standards, including a Pulpmills standard.

(c) The time schedule for the adoption of some standards was moved up to ensure adoption and submittal to the Occupational Safety and Health Administration (hereinafter referred to as OSHA) for approval by the end of the three-year period following commencement of operations.

2. *Description of developmental schedule.* (a) In addition to the changes in completion dates the State has changed the developmental schedule in the following ways:

(1) The State Plan Approval Notice refers to adoption of regulations regarding "providing information to employees on hazards including medical examinations and observation and access to monitoring results." The revised developmental time schedule deletes the commitment to promulgate these regulations. The State designee has submitted provisions in regulations on requirements for labels and medical examinations for adoption to the State's Attorney General but the Attorney General has deleted such provisions as being a statement of intent not properly included in the regulatory code. Since the State plan contains pledges that the State standards will meet the necessary requirements and the State is required by Federal regulations to maintain "at least as effective" standards it would appear that the State is already bound to include the required provisions in all appropriate standards regardless of whether regulations are adopted. Further, all different State standards would be reviewed by OSHA before approval to assure that all necessary provisions are included.

(2) The State originally planned to develop a Fisheries Code. This is no longer contemplated. Such industry will continue to be covered under the State's general standards as it is in the Federal program.

(3) The State has added commitments to promulgate regulations on variances and clarification concerning the appropriate parties for employers to notify in order to file a notice of contest.

(b) The revised schedule contains a formal date for each goal, including those that have already been met in order to provide a uniform record. Several of the developmental steps, including the Compliance Operations Manual and several standard subparts, have been completed and appropriate documentation submitted to OSHA. Change supplements regarding completion of these developmental steps are currently under review by OSHA or are being revised by the State.

3. *Location of the developmental schedule supplement for inspection and copying.* A copy of the developmental schedule supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Room N-3608, 200 Constitution Ave., NW, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Ave., Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska, 99801.

4. *Public participation.* The June 4, 1976, notice published in the FEDERAL REGISTER (41 FR 22580) described the supplement and afforded 30 days for interested persons to submit written comments, data, views, and arguments concerning whether the supplement should be approved. No public comments concerning the supplement have been received.

5. *Decision.* After careful consideration, the Alaska plan supplement described above is hereby approved under Subpart E of Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In addition, in accordance with the above, §§ 1952.243 and 1952.244 of Subpart R, Part 1952, are hereby amended to read as follows:

§ 1952.243 Developmental schedule.

The Alaska plan is developmental. The Schedule of developmental steps (described in the plan as revised in letters dated September 17, 1975, February 10, 1976, and April 15, 1976, from Edmond N. Orbeck, Commissioner, Alaska Department of Labor, to James Lake, Regional Administrator for Occupational Safety and Health) follows:

(a) Promulgation of occupational safety and health standards, as effective as corresponding Federal standards promulgated under Chapter XVII of Title 29, Code of Federal Regulations by September 1976.

(b) A Compliance Operations Manual for the guidance of compliance personnel will be developed and printed by February 1, 1974.

(c) A Management Information System (MIS) will be developed by October 1, 1974.

(d) An interim training schedule (Appendix M) will be initiated by April 1, 1974. An extended training plan of substantially permanent form will be developed and adopted by October 1, 1976.

(e) Complete hiring of industrial health staff by October 1, 1976.

(f) Provide for an Industrial Health Laboratory capacity by October 1, 1976.

(g) Adoption of the following regulations by January 30, 1975:

(1) Recordkeeping & Reporting;

(2) Variances;

(3) Exceptions to the prohibitions against advance notice (such exceptions to be no broader than those contained in 29 CFR Part 1903);

(4) Clarification of the appropriate parties for employers to notify in order to file a notice of contest;

(5) A definition of imminent danger that mirrors the Federal definition;

(6) A regulation to allow affected employees to participate as parties in hearings.

§ 1952.244 Completed developmental steps.

(a) In accordance with § 1952.243(d) Alaska completed its interim training program by April 1, 1974, and has developed and adopted an extended training program by October 1, 1976 (41 FR 36206).

(b) In accordance with § 1952.243(c) Alaska has developed and implemented a manual Management Information System by October 1, 1974 (41 FR 36206).

(c) In accordance with the requirements of § 1952.10 the Alaska Safety and Health Poster for private and public employees was approved by the Assistant Secretary on September 28, 1976 (41 FR 43405).

(d) In accordance with § 1952.243(e) Alaska has completed hiring of its industrial health staff by October 1, 1976 (41 FR 52556).

(e) In accordance with § 1952.243(f) Alaska has provided for an Industrial Health Laboratory capacity by October 1, 1976 (41 FR 36206).

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 17th day of December 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37877 Filed 12-27-76;8:45 am]

PART 1952—APPROVED STATE PLANS FOR THE ENFORCEMENT OF STATE STANDARDS

Arizona Plan—Approved Supplements

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act), for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On November 5, 1974, a notice was published in the FEDERAL REGISTER of the approval of the Arizona plan (39 FR 39037) and of the adoption of Subpart CC of Part 1952 containing the decision of approval. On October 1, 1976, the State of Arizona submitted a supplement to the plan involving a State initiated change (see Subpart E of 29 CFR Part 1953). In addition, a notice was published in the FEDERAL REGISTER on August 6, 1976, concerning the approval of the Arizona occupational safety and health standards by the Regional Administrator of the Occupational Safety and Health Administration (41 FR 32917). The promulgation of these standards represents the completion of a developmental step.

2. *Description of the supplement.* The supplement concerns a revised timetable for the completion of two developmental steps. The State has changed its proposed date for promulgation of regulations concerning variances to July 1, 1977. In addition, the notice approving the Arizona plan (39 FR 39037) discussed several legislative amendments which were to be enacted by the State. The State will submit these amendments to the legislature by January 1, 1977, and enactment of the amendments is expected by July 1, 1977.

3. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N3608, 200 Constitution Avenue, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 9470, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102; and the Division of Occupational Safety and Health, Industrial Commission of Arizona, 1601 West Jefferson Street, Phoenix, Arizona 85005.

4. *Public participation.* Under § 1953.2 of this chapter and 5 U.S.C. 553(b)(3)(B), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that public comment and notice is unnecessary because the supplement concerns a change in the timing of the implementation of certain developmental steps within the 3-year developmental period and is not a substantive change in the plan.

5. *Decision.* After careful consideration, the Arizona plan supplement described above is hereby approved. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, §§ 1952.353 and 1952.354 of Subpart CC of 29 CFR Part 1952 are amended as set forth below effective December 28, 1976.

1. Section 1952.353 (c) and (e) is revised as follows:

§ 1952.353 Developmental schedule.

* * * * *

(c) Promulgation of variance regulations by July 1, 1977.

* * * * *

(e) The submission of legislative amendments to the Arizona Legislature during its 1977 session.

2. Section 1952.354(h) is revised as follows:

§ 1952.354 Completed developmental steps.

* * * * *

(h) Arizona occupational safety and health standards comparable to Federal standards in effect as of July 28, 1974, were promulgated on February 28, 1975, and were approved by the Regional Administrator effective August 6, 1976.

(Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g)(2), 667)).

Signed at Washington, D.C. this 17th day of December, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37879 Filed 12-27-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 658-2]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Revised Light Duty Truck Regulations for 1979 and Later Model Year Vehicles

The Environmental Protection Agency (EPA) is amending Subparts A and B of Part 86 of the EPA regulations. This action was preceded by a Notice of Proposed Rule Making (NPRM), 41 FR 6279, February 12, 1976, and after careful review of public comments has been amended as described herein.

The amendments to Subparts A and B of Part 86 will expand the light duty truck (LDT) class definition, impose more stringent exhaust emission standards on trucks in the new light duty truck class and make certain changes in test procedures applicable to LDTs.

These changes do not affect the definition of LDT with regard to mandatory fuel economy labeling requirements of 40 CFR part 600. However, the test procedure changes apply to the fuel economy measurements which EPA will use in determining the mile per gallon performance of LDTs for purposes of labeling and compliance with subsequent fuel economy standards which the Secretary of Transportation may promulgate under provisions of Title V of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1901, as amended by the Energy Policy and Conservation Act of 1975, Pub. L. 94-196, 89 Stat. 871.

The first major change in the regulations is the increase in the upper weight limit for light duty trucks from 6000 to 8500 pounds gross vehicle weight rating (GVWR). Along with this change, the light duty truck class has been restricted to trucks with 6000 pounds or less completed vehicle curb weight and less than 46 square feet frontal area. The lower limit to the heavy duty class (Subparts H, I and J) has been correspondingly increased. The 8500 pound primary cut point was selected because it represents the minimum overlap between trucks used for personal transportation and those for commercial service. Accompanying this change is the creation of two options for alternative certification procedures. Engines for use in heavy duty vehicles (HDVs) over 8500 pounds GVWR but under 10,000 pounds GVWR can either be certified as heavy duty engines or, at the manufacturer's option, in LDTs to the new LDT standards. The second option would allow the manufacturers to request certification of incomplete trucks under 8,500 pounds GVWR as either LDTs or HDVs based on their intended completed vehicle configuration. These features are designed to minimize problems caused by manufacturers having to certify a single line of trucks under two sets of standards as well as to minimize the number of personal use vehicles certified as heavy duty and commercial use vehicles certified as light duty.

The second major change is a reduction of the current light duty truck emission standards from 2.0 grams/mile hydrocarbons (HC), 20 grams/mile carbon monoxide (CO) and 3.1 grams/mile oxides of nitrogen (NOx) to 1.7 grams/mile HC, 18 grams/mile CO and 2.3 grams/mile NOx. The adoption of these standards which were proposed in February represent more than a 44% reduction in lifetime emissions for vehicles to be added to the class. Technology is available which enables light duty trucks to meet these standards at moderate cost and no increase in fuel consumption.

As a result of this action, emissions from the new light duty trucks class will be reduced in 1990 by 0.9 million tons per year HC, 4.4 million tons per year CO and 0.6 million tons per year NOx. In 1990 these emission reductions are projected to result in urban air quality improvements of six percent for oxidants, five percent for carbon monoxide and three to four percent for nitrogen dioxide.

The aggregate five year cost of this regulation is estimated to approach $1.6 billion. The average light duty truck cost increase is projected to be $8 for trucks currently regulated as light duty trucks (0 to 6000 pounds GVWR), and $219 for those trucks added to the light duty truck class (6000 to 8500 pounds GVWR). No fuel economy or maintenance cost penalties are anticipated as a result of this regulation.

Light duty trucks are currently subject to evaporative emission standards. Changes to these standards and to the evaporative emissions test procedure are not addressed in this document. EPA has promulgated final rules which revised evaporative emission standards and test procedures (41 FR 35621, August 23, 1976). As promulgated, these evaporative emission regulations are applicable to light duty trucks. Since today's action would change the definition of light duty truck to include more vehicles, the additional trucks will be covered by the new evaporative emission standards and test procedures. The effects of the inclusion of these additional vehicles under the evaporative standards has been previously assessed in the development of the evaporative emission control regulations.

A number of issues were raised in the comments received in response to the NPRM and EPA believes that all have been satisfactorily resolved. The resolution of these issues has resulted in several changes to the final rules. The major issues which have been raised and their resolution along with specific changes to the regulation are described in the following discussions.

Lead Time. The manufacturers contended that the 1978 model year proposed effective date did not provide adequate lead time to meet the emission standards on a full product line before the introduction of the 1978 models. EPA concurs and therefore the proposed regulations were revised to provide for a 1979 model year effective date. The manufacturers have time available to comply with this regulation in the 1979 model year.

Class Definition. Comments were divided over the issue of an appropriate class definition. Some comments supported the EPA proposal and some included alternative suggestions ranging from no change to the current LDT class definition to setting the division between LDTs and HDVs at 10,000 pounds GVWR. Some manufacturers argued that vehicle design parameters should be the basis for distinguishing light duty trucks from heavy duty vehicles.

EPA has developed two types of driving cycles[1] for use in testing vehicles and engines for emissions performance. One of these is currently used for testing light duty vehicles and light duty trucks and is designed to simulate a common form of urban driving typically experienced by vehicles employed primarily for personal, rather than commercial use. The other type of cycle is used for testing engines rather than total vehicles and is used for heavy duty, commercial vehicles. Since the driving cycle is critical to measured emissions, it is appropriate that vehicles or engines be tested on the cycle that best reflects the use and type of driving that the vehicle or engine is most likely to experience in use. Consequently, the EPA position is that the primary use of vehicles should govern their classification for emission testing purposes. The majority of trucks under 8500 pounds GVWR are used primarily for personal transportation and should therefore be tested at LDTs.

Only those design features which would largely preclude personal use have been adopted as criteria for allowing certification as heavy duty vehicles. To this end EPA has accepted the contention that delivery vans which are designed to carry only commodities, and are now characterized by much larger frontal areas than pickup trucks and conventional vans, are properly regulated as heavy duty vehicles. The LDT class defi-

[1] The driving cycle is the mix of speeds, stops, accelerations, decelerations, etc. that the vehicle is put through on the test.

nition therefore includes only vehicles of less than 46 square feet frontal area.

The other aspects of the class definition, i.e., 6000 pound curb weight and 8500 pound GVWR (optional to 10,000 pound GVWR) remain unchanged from the NPRM.

Incomplete Vehicles. The curb weight and frontal area of vehicles sold in an incompleted form (without the primary load carrying device) can only be determined at the time of sale by the primary manufacturer based on feedback from the secondary manufacturer. EPA generally agrees with the comments indicating that with current practice, most incomplete vehicles are eventually built into commercial and recreational use vehicles whose final configurations would meet the criteria for heavy duty classification. Therefore, the regulation provides for a manufacturer's option for the certification of incomplete trucks (less than 8500 pounds GVWR) as either LDTs or of their engines as heavy duty engines. Each incomplete HDV under 8500 pounds GVWR, and any incomplete LDT (including any HDV optionally certified as a LDT) must be labeled so that subsequent manufacturers will complete the vehicle in accordance with its certified configuration. The label will specify a maximum certified completed vehicle curb weight and frontal area in the case of LDTs, and a minimum completed vehicle curb weight of 6000 pounds or a minimum frontal area of 46 square feet in the case of HDVs.

It is the Agency's intent that incomplete light duty trucks which are sold by the primary vehicle manufacturer to a secondary manufacturer for subsequent installation of a load-carrying device or container remain subject to the statutory prohibitions regarding the sale of uncertified vehicles. The purpose for requiring the primary manufacturer to label his incomplete light duty trucks is to provide adequate notice to the secondary manufacturer of the extent of the modifications he may make to the vehicle while not invalidating the vehicle's certificate of conformity. Thus, when the secondary manufacturer completes the vehicle within the constraints regarding curb weight and frontal area presented on the vehicle label, the vehicle would retain coverage of its certificate of conformity, and the final vehicle would be considered to be certified. If, however, the secondary manufacturer completes the vehicle at a greater curb weight or frontal area than specified on the vehicle's label, the Agency will deem that vehicle not to be covered by a certificate of conformity. In this event, the statutory prohibitions of section 203(a)(1) of the Clean Air Act (42 U.S.C. 1857f-2(a)(1)) would apply to the secondary manufacturer.

Although this sanction also currently applies to a manufacturer who installs a certified heavy duty engine in a light duty truck, with the advent in model year 1979 of a 6000 pound curb weight and a 46 square foot frontal area limitation on light duty trucks the Agency has deemed it necessary to make more specific the limitations which are placed on the secondary vehicle manufacturer. In the case of incomplete heavy duty vehicles less than 8500 pounds GVWR which are sold by a primary engine/chassis manufacturer for subsequent addition of a vehicle body by the secondary manufacturer, the secondary manufacturer is to be notified in a manner consistent with National Highway Traffic Safety Administration safety notification requirements that he must complete the vehicle with a curb weight greater than 6000 pounds or with a frontal area greater than 46 square feet. To do otherwise would mean that the secondary manufacturer has produced a light duty truck, and that he would then be required to obtain light duty truck certification prior to selling the vehicle.

Road Load Horsepower. The NPRM proposed values of road load horsepower substantially higher than the existing requirements. Manufacturers submitted data indicating that these values were too high. Additional data confirmed that contention. A new table of road load power requirements has been developed. These power settings, although lower than those proposed, are still higher than result in a more accurate measurement of emissions and fuel economy from LDTs.

On September 10, 1976 (41 FR 38674), EPA proposed regulations for fuel economy testing and calculation for exhaust emission test procedures for 1977 through 1979 model year vehicles. That proposal included an equation for calculating the road load power for 1979 and later model year light duty trucks. That equation presented road load power as a function of vehicle frontal area, shape factor, protuberance factor, tire type and inertia weight. EPA has since concluded that it does not have sufficient road load power data for light duty trucks to be able to implement such an equation for the 1979 model year.

EPA considers the road load values presented as a function of frontal area as a compromise solution to the problem of specifying an accurate value for each specific LDT configuration. EPA recognizes the desirability of expressing road load as a function of several vehicle aerodynamic characteristics in addition to vehicle frontal area, such as body shape, and the presence of protuberances (roof racks, external aerials, hood ornaments, mirrors, etc.). However, insufficient data are now available to express these variables in mathematical terms and quantify the effects of each. As a first attempt to recognize the effects of body shape, two road load equations have been developed. One applies to all LDTs except vans which have reduced road load power requirements for a given frontal area due to better aerodynamic characteristics. EPA plans to further address the potential of expressing road load as a function of light duty truck characteristics in subsequent rule making actions applicable to some model year beyond 1979.

Payload. The NPRM proposed that a 500 pound simulated payload be substituted for the 300 pound payload in the existing regulation. Comments received were largely negative and indicated that the use of the higher payload was inconsistent with the personal use concept which is the basis for the revised class definition. EPA agrees, and has retained the current 300 pound payload.

Stringency of Standards. Some manufacturers claimed that the standards were more stringent than the 1977 LDV standards because of the added payload and higher road load proposals. However, the 500 pound payload is no longer required and the road load horsepower has been reduced to a level which has been adequately accounted for in selecting standards of stringency equivalent to the 1977 LDV standards (HC=1.5, CO=15, NO$_x$=2 grams per mile). Therefore, the final standards remain unchanged from the NPRM.

Without the adoption of these amendments, an increasing portion of motor vehicle emissions will come from vehicles in the light duty truck class. In order to achieve the same overall reduction from further controls on light duty vehicles, extremely stringent and expensive standards would have to be imposed. Control of light duty truck is, in comparison, a cost effective program.

This final regulation is being presented in hte FEDERAL REGISTER in the form of single amendments to the 1979 model year certification regulations. This form has been adopted to aid the reader in identifying the specific provisions of the certification regulations that are affected by today's action. EPA has outstanding several other proposals that affect the 1979 model year certification regulations, and intends to issue a complete set of 1979 model year regulations to aid in the use of its regulations after these other proposals are promulgated in final form.

Effective date: 40 CFR Part 86, as amended becomes effective February 11, 1977 and is applicable to 1979 and subsequent model year light duty trucks. The current regulations which appear at 40 CFR Part 85 and Part 86 would remain in effect for 1975 through 1978 model year vehicles.

Single copies of the Environmental Impact Statement for this regulation and the "Analysis of Comments to the NPRM" are available upon request from the Public Information Center (PM-215), U.S. Environmental Protection Agency, Washington, D.C. 20460. The Environmental Impact Statement discusses the environmental and economic impacts of this regulation, and provides a complete analysis setting forth EPA's rationale for the final regulation. In addition, the Environmental Impact Statement discusses several alternatives which arose as a result of comments submitted on the proposed regulation. The analysis of comments summarizes each commenter's position and describes EPA's rationale in resolving each issue.

This regulation is issued under the authority of sections 202(a), 206 and 301(a) of the Clear Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, 1857g(a)).

The Environmental Protection Agency has determined that this document contains a major regulation requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Inflation Impact Statement has been prepared.

Dated: December 17, 1976.

RUSSELL E. TRAIN,
Administrator.

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. A new § 86.078–1 is added as follows:

§ 86.078–1 General applicability.

(a) The provisions of this subpart apply to 1978 model year new gasoline-fueled and Diesel light duty vehicles, 1978 model year new gasoline-fueled and Diesel light duty trucks and 1978 model year new gasoline-fueled and Diesel heavy duty engines.

(b) Optional applicability. A manufacturer may request to certify any heavy duty vehicle 10,000 pounds GVWR or less as a light duty truck; heavy duty vehicle provisions do not apply to such a vehicle. Provisions applicable for the 1979 model year shall be followed with respect to such vehicles; however, the standards in § 86.078–9 shall apply. Any 1978 model year light duty truck may be certified under the provisions applicable for the 1979 model year except that the standards in § 86.078–9 still apply.

2. A new § 86.079–1 is added as follows:

§ 86.079–1 General applicability.

(a) The provisions of this subpart apply to 1979 and later model year new gasoline-fueled and Diesel light duty vehicles, 1979 and later model year new gasoline-fueled and Diesel light duty trucks and 1979 and later model year new gasoline-fueled and Diesel heavy duty engines.

(b) Optional applicability. A manufacturer may request to certify any heavy duty vehicle 10,000 pounds GVWR or less as a light duty truck: heavy duty vehicle provisions do not apply to such a vehicle.

3. A new § 86.079–2 is added and reads as follows:

§ 86.079–2 Definitions.

The following definitions apply beginning with the 1979 model year. Section 86.078–2 remains effective excepting those definitions which are hereby superseded.

"Basic vehicle frontal area" means the area enclosed by the geometric projection of the basic vehicle along the longitudinal axis, which includes tires but excludes mirrors and air deflectors, onto a plane perpendicular to the longitudinal axis of the vehicle.

"Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Heavy duty vehicle" means any motor vehicle rated at more than 8500 pounds GVWR or that has a vehicle curb weight of more than 6000 pounds or that has a basic vehicle frontal area in excess of 46 square feet.

"Incomplete truck" means any truck which does not have the primary load carrying device or container attached.

"Light duty truck" means any motor vehicle rated at 8500 pounds GVWR or less which has a vehicle curb weight of 6000 pounds or less and which has a basic vehicle frontal area of 46 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons, or

(3) Available with special features enabling off-street or off-highway operation and use.

"Loaded vehicle weight" means the vehicle curb weight plus 300 pounds.

"Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 86.078–24; incomplete light duty trucks shall have vehicle curb weight specified by the manufacturer.

"Van" means a light duty truck having an integral enclosure, fully enclosing the driver compartment and load carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

4. A new § 86.079–9 is added:

§ 86.079–9 Emission standards for 1979 and later model light duty trucks.

(a) (1) Exhaust emissions from 1979 and later model year light duty trucks shall not exceed:

(i) *Hydrocarbons.* 1.7 grams per vehicle mile.

(ii) *Carbon monoxide.* 18 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 2.3 grams per vehicle mile.

(2) The standards set forth in paragraph (a) (1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B and measured and calculated in accordance with those procedures.

(b) [See paragraph (b) of § 86.078–9].

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1979 and later model year gasoline-fueled light duty truck.

5. A new § 86.079–20 is added:

§ 86.079–20 Incomplete vehicles, classification.

(a) An incomplete truck less than 8500 pounds gross vehicle weight rating shall be classified by the manufacturer as a light duty truck or as a heavy duty vehicle. Incomplete light duty trucks shall be described in the manufacturer's application for certification. The frontal area and curb weight used for certification purposes shall be specified on the label required in § 86.079–35(d). Incomplete heavy duty trucks must be labeled as required in § 86.079–35(e).

6. A new § 86.079–21 is added:

§ 86.079–21 Application for certification.

(a) through (c) [See paragraphs (a) through (c) of § 86.078–21].

(d) Incomplete light duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

7. A new § 86.079–26 is added as follows:

§ 86.079–26 Mileage and service accumulation; emission measurements.

(a) (1) [See § 86.078–26(a) (1)].

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV of this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.125, the manufacturer may elect to conduct the respective emission tests at the inertia weight corresponding to the higher loaded vehicle weight. Mileage will be accumulated on four wheel drive vehicles in their normal on-highway mode of operation.

(a) (3) through (c) [See § 86.078–26 (a) (3) through (c)].

8. A new § 86.079–30 is added as follows:

§ 86.079–30 Certification.

(a) (1) through (a) (7) [See § 86.078–30 (a) (1) through (a) (7)].

(8) Certificates issued for incomplete light duty trucks shall be subject to the following term in addition to the term in paragraph (a) (2) of this section: "For incomplete light duty trucks, this certificate covers only those new motor vehicles which when completed by having the primary load carry device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in 40 CFR 86.079–21(d)."

(9) Certificates issued for heavy duty engines shall be subject to the following term in addition to the term in paragraph (a) (2) of this section: "For heavy duty engines, this certificate covers only those new motor vehicle engines installed in heavy duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy duty vehicles described in 40 CFR 86.079–2."

(b) through (c) [see § 86.078–30(b) through (c)].

9. A new § 86.079–35 is added:

§ 86.079–35 Labeling.

(a) (1) (iii) (D) through (c) [see § 86.077–35(a) through (a) (1) (iii) (B)].

(C) [see § 86.078–35(a) (1) (iii) (C)].

(a) (1) (iii) (D) through (c) [see § 86.077–35(a) (1) (iii) (D) through (c)].

(d) Incomplete light duty trucks and incomplete heavy duty vehicles option-

ally certified as light duty trucks shall have the following statement printed on the label required in paragraph (a)(1) of this section in lieu of the statement required by (a)(1)(iii)(E) of this section: "This vehicle conforms to U.S. EPA regulations applicable to 19__ Model Year New Motor Vehicles when completed at a maximum curb weight of ____ pounds and a maximum frontal area of ____ square feet."

(e) Incomplete heavy duty vehicles having an 8500 pound gross vehicle weight rating or less shall have the following statement printed on the label required in paragraph (a)(2) or (a)(3) of this section in lieu of the statement required by paragraph (a)(2)(iii)F or (a)(3)(iii)F of this section: "This engine conforms to U.S. EPA regulations applicable to 19__ Model Year New Heavy Duty Engines when installed in a vehicle completed at a curb weight of more than 6000 pounds or with a frontal area greater than 46 square feet."

(f) The manufacturer of any incomplete vehicle shall notify the purchaser of such vehicle of any curb weight, frontal area or gross vehicle weight rating limitations affecting the emissions certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with NHTSA safety notification requirements published in 40 CFR 568.

10. A new § 86.129-79 is added:

§ 86.129-79 Road load power and inertia weight determination.

(a) Flywheels, electrical or other means of simulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 pounds) available shall be used.

Loaded vehicle weight (pounds)	Equivalent inertia weight (pounds)	Road load power at 50 mph (horsepower)	
		Light Duty Vehicles	Light Duty Trucks
Up to 1,125	1,000	5.9	
1,126 to 1,375	1,250	6.5	
1,376 to 1,625	1,500	7.1	
1,626 to 1,875	1,750	7.7	
1,876 to 2,125	2,000	8.3	
2,126 to 2,375	2,250	8.8	
2,376 to 2,625	2,500	9.4	
2,626 to 2,875	2,750	9.9	
2,875 to 3,250	3,000	10.3	
3,251 to 3,750	3,500	11.2	See notes (2) thru (4)
3,751 to 4,250	4,000	12.0	
4,251 to 4,750	4,500	12.7	
4,751 to 5,250	5,000	13.4	
5,251 to 5,750	5,500	13.9	
5,751 to 6,250	6,000(1)	14.4(1)	
6,251 to 6,750	6,500	-	
6,751 to 7,250	7,000	-	
7,251 to 7,750	7,500	-	
7,751 to 8,250	8,000	-	
8,251 to 8,750	8,500	-	
8,751 to 9,250	9,000	-	
9,251 to 9,750	9,500	-	
9,751 to 10,000	10,000	-	

Notes:

(1) Light duty vehicles over 5,750 pounds loaded vehicle weight shall be tested with a 5,500 pound equivalent inertia and a 14.4 horsepower road load.

(2) For all light duty trucks except vans, and for heavy duty vehicles optionally certified as light duty trucks, the road load power (horsepower) at 50 mph shall be 0.58 times A (defined below) rounded to the nearest one half horsepower.

(3) For vans, the road load power at 50 mph (horsepower) shall be 0.50 times A (defined below) rounded to the nearest one half horsepower.

(4) "A" is the basic vehicle frontal area (ft^2) plus the additional frontal area (ft^2) of mirrors and optional equipment exceeding 0.1 square feet which are anticipated to be sold on more than 33 percent of the car line. Frontal area measurements shall be computed to the nearest tenth of a square foot.

(b)(1) through (b)(2) [see § 86.129-78(b)(1) through (b)(2)].

(b)(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph (b)(2) of this section shall be increased by 10 percent, up to a maximum increase of 1.4 horsepower, for testing all test vehicles representing such an engine family if those vehicles are intended to be offered with air conditioning in production. If the table in paragraph (b)(1) of this section is used to determine the road load power for light duty trucks, the above increase for air conditioning shall be added prior to rounding off as instructed by notes 2 and 3 of the table.

11. A new § 86.135-79 is added:

§ 86.135-79 Dynamometer procedure.

(a) through (h) [See § 86.135-78(a) through (h)].

(i) Four wheel drive vehicles will be tested in a two wheel drive mode of operation. Full time four wheel drive vehicles will have one set of drive wheels temporarily disengaged by the vehicle manufacturer. Four wheel drive vehicles which can be manually shifted to a two wheel drive mode will be tested in the normal on-highway two wheel drive mode of operation.

12. A new § 86.142-79 is added:

§ 86.142-79 Records required.

(a) through (e) [see § 86.142-78(a) through (e)].

(f) Vehicle: ID number, Manufacturer, Model year, Standards, Engine family, Evaporative emissions family, Basic engine description (including displacement, number of cylinders, and catalyst usage), Fuel system (including number of carburetors, number of carburetor barrels, fuel injection type, and fuel tank(s) capacity and location), Engine code, Gross vehicle weight rating, Inertia weight class, Actual curb weight at zero miles, Actual road load at 50 mph, Transmission configuration, Axle ratio, Car line, Odometer reading, Idle rpm and Drive wheel tire pressure, as applicable.

(g) through (o) [see § 86.142-78(g) through (o)].

[FR Doc.76-37748 Filed 12-27-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

DISCREPANCIES OR DEFICIENCIES IN GSA OR DOD SHIPMENTS, MATERIAL, OR BILLINGS

The General Services Administration (GSA) on August 12, 1976, published in the FEDERAL REGISTER at 41 FR 34080 a proposal to change Subparts 101-2.1 and 101-26.3 of the Federal Property Management Regulations (FPMR) and to add new Subpart 101-26.8.

During the time allowed for the submission of comments only three were received, none of which spoke to or questioned the policies proposed to be

changed. Rather, the comments were either of an editorial nature or directed toward GSA policies not part of the proposed changes. Therefore, since no objections were received and in the interests of improved economy and efficiency in GSA supply support, the FPMR is amended as set forth below.

SUBCHAPTER A—GENERAL

[FPMR Amdt. A-24]

PART 101–2—PAYMENTS TO GSA FOR SUPPLIES AND SERVICES FURNISHED GOVERMENT AGENCIES

Subpart 101–2.1—Billings, Payments, and Adjustments

1. Section 101–2.104 is amended as follows:

§ 101–2.104 Adjustments.

* * * * *

(c) Adjustments of billings or payments are not required and should not be requested or made whenever the difference involved, resulting from over or under deliveries or over or under charges, represents an amount of $25 or less on any one line item on a bill. This practice regarding adjustments is not to be construed to eliminate billings and payments for requisitioned items of $25 or less. In connection with GSA Federal Supply Service activities, Subpart 101–26.8 is applicable to adjustments for discrepancies or deficiencies in shipments or material. To minimize followup, research, and collection costs on intragovernmental transactions, agencies are urged to follow the most liberal policy possible in determining whether or not to request adjustments. To further expedite settlement of accounts between GSA and the billed agencies, such settlements may be made by mutual agreement, regardless of amount, without reference to the General Accounting Office.

* * * * *

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-198]

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

The table of contents for Part 101–26 is amended by adding the following reserved and new entries:

Sec.

101–26.307–1	[Reserved]
101–26.307–2	[Reserved]
101–26.307–3	[Reserved]

Subpart 101–26.8—Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings

101–26.800	Scope of subpart.
101–26.801	Applicability.
101–26.802	Exclusions.
101–26.803	Discrepancies or deficiencies in shipments, material, or billings.
101–26.803–1	Reporting discrepancies or deficiencies.
101–26.803–2	Adjustments.

Subpart 101–26.3—Procurement of GSA Stock Items

Section 101–26.307 is revised and §§ 101–26.307–1, 101–26.307–2 and 101–26.307–3 are deleted and reserved as follows:

§ 101–26.307 Processing overages, shortages, and damages.

(a) Transportation-type discrepancies shall be processed in accordance with the instructions in Subpart 101–40.7 when the discrepancies are the fault of the carrier and occur while the shipments are in the possession of:

(1) International ocean or air carriers, regardless of who pays the transportation charges, except when shipment is on a through Government bill of lading (TGBL) or is made through the Defense Transportation System (DTS) (Discrepancies in shipments on a TGBL or which occur while in the DTS shall be reported as prescribed in Subpart 101–26.8.); or

(2) Carriers within the continental United States, when other than GSA or DOD pays the transportation charges.

(b) Reporting discrepancies or deficiencies in material or shipments and processing requests for or documenting adjustments in billings from or directed by GSA activities shall be in accordance with the provisions of Subpart 101–26.8.

§ 101–26.307–1 [Reserved]

§ 101–26.307–2 [Reserved]

§ 101–26.307–3 [Reserved]

New Subpart 101–26.8 is added as follows:

Subpart 101–26.8—Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings

§ 101–26.800 Scope of subpart.

This subpart prescribes a uniform system for reporting discrepancies or deficiencies in material or shipments and processing requests for or documenting adjustments in billings from or directed by GSA or Department of Defense (DOD) activities.

§ 101–26.801 Applicability.

This subpart is applicable to all civilian executive agencies, including their contractors and subcontractors when authorized. DOD activities should follow the applicable DOD or military service/agency regulations in reporting discrepancies or deficiencies in shipments or material, or requesting adjustments in billings from or directed by GSA unless exempted therefrom, in which case the provisions of this § 101–26.801 apply.

§ 101–26.802 Exclusions.

The provisions of this regulation are not applicable to shipments and billings related to the stockpile of strategic and critical materials or excess or surplus property; or to billings for services, space, communications, and printing.

§ 101–26.803 Discrepancies or deficiencies in shipments, material, or billings.

§ 101–26.803–1 Reporting discrepancies or deficiencies.

(a) When discrepancies or deficiencies are incurred in shipments or material, activities shall document such discrepancies or deficiencies with sufficient information to enable initiation and processing of claims against carriers and suppliers for shortages, damages, and the disposition of any overages or incorrect items. Procedures for documenting such discrepancies or deficiencies including those for documenting and reporting quality deficiencies are set forth in the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings, promulgated by the Commissioner, Federal Supply Service.

(1) Discrepancies or deficiencies other than those outlined in paragraph (2) of this section shall be reported on the forms and within the time frames and dollar limitations prescribed in the handbook referenced above.

(2) Transportation-type discrepancies shall be processed in accordance with the instructions in Subpart 101–40.7 when the discrepancies are the fault of the carrier and occur while the shipments are in the possession of:

(i) International ocean or air carriers, regardless of who pays the transportation charges, except when shipment is on a through Government bill of lading (TGBL) or is made through the Defense Transportation System (DTS) (Discrepancies in shipments on a TGBL or which occur while in the DTS shall be reported as prescribed in the GSA Handbook referenced in paragraph (a) of this section.); or

(ii) Carriers within the continental United States, when other than GSA or DOD pays the transportation charges.

(b) Reports shall be prepared promptly and mailed to the appropriate GSA or DOD office in order to avoid delay in adjustment actions and complication of claim actions against carriers or suppliers.

§ 101–26.803–2 Adjustments.

GSA and DOD will adjust billings whenever the difference involved, resulting from over or under charges or discrepancies or deficiencies in shipments or material, exceeds $25 per line item on a bill submitted in accordance with the provisions of this Subpart 101–26.8 and the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Effective date: These regulations are effective December 28, 1976.

The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 16, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–38006 Filed 12–27–76; 8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-1134; Docket No. 20693, RM-2616]

PART 73—RADIO BROADCAST SERVICES

Vertical Blanking Interval of the Television Broadcast Signal for Captioning for the Deaf

Adopted: December 8, 1976.

Released: December 20, 1976.

1. A Notice of Proposed Rule Making in the above-entitled proceeding (FCC 76-72) was released on February 5, 1976 (41 FR 5834). The dates for filing comments and reply comments were originally March 10 and March 24, 1976, respectively. In response to timely filed requests by CBS, Inc. and the Electronic Industries Association (EIA), these dates were extended, by the Chief, Broadcast Bureau, pursuant to delegated authority, to May 10 and May 25, 1976, respectively.[1]

2. This proceeding was initiated in response to a petition for rule making (RM-2616) filed by the Public Broadcasting Service (PBS) on November 6, 1975, requesting amendment of Subpart E of Part 73 of the Commission's Rules and Regulations to provide that Line 21, Field 1, and the available half of Line 21, Field 2, of the television vertical blanking interval be reserved for the transmission of captioned information for the deaf.

3. In the Notice of Proposed Rule Making (para. 15) we set forth several questions to which we asked commenting parties to respond. These questions were:

Should scarce vertical interval space be used to serve the limited purpose advanced in the proposal?

What are the prospects for accommodating shared use of line 21?

If sharing is feasible, should captioning be made a priority use?

What foreseeable uses for the vertical interval would be precluded by adoption of the proposal?

Is the current use of the vertical interval extravagant, i.e., may some of the current vertical interval signals satisfactorily serve their intended function using less vertical interval space than at present?

To what extent are potential users of the information carrying capability of vertical interval signals interested in exploiting this technology.

Additionally, parties were invited to discuss the cost estimates for encoder and decoder equipment and the captioning of programs, particularly in regard to their impact upon anticipated actual use of the service. Comments were also sought, in the light of economic and other pertinent factors, on any matters concerning the application of captioning to programs in general and ultimate use of the captioning system.

4. Parties filing formal comments in this proceeding are identified in Appendix A. In addition, several hundred individuals, many state and local organizations, and many members of Congress filed informal comments endorsing the rule changes proposed in this proceeding. Support for the proposal is not unanimous however. Questions concerning the advisability of proceeding to restrict the use of Line 21 solely for the purpose of captioning have been raised. We shall address the foregoing issues in our further discussion of the PBS proposal herein.

5. To establish that captioning is a pressing need, PBS cites statistics from HEW[2] which show that there are at least 13.4 million persons in the United States with hearing impairments. PBS, utilizing a captioning system which was initially developed by the National Bureau of Standards (NBS), commenced an experimental program in closed captioning on June 28, 1972, under authority granted by this Commission. Several Special Temporary Authority's (STA's) have been issued for this program, the last being issued on November 12, 1976, with a termination-date of March 1, 1977. The experimental program also included consideration of an alternative system developed by Hazeltine Research Inc. (HRI) which did not utilize the vertical blanking space, instead relying upon a submerged interleaved subcarrier within the active portion of the video signal. Acknowledging that there were certain problems with both systems, PBS opted for the "Line 21" system (the NBS system) because its problems appeared to be more easily solved.

6. NBS had previously filed a Petition for Rule Making (RM-2108) for transmission on Line 21 of time and standard frequency data along with other information. On November 24, 1976, NBS filed a motion to withdraw its Petition for rulemaking and the Chief, Broadcast Bureau, pursuant to delegated authority, has granted the NBS motion.

7. In its petition, PBS stated that the time is now ripe for adoption of rules for captioning because of (1) the overwhelming acceptance by hearing impaired viewers who have seen captioned programs on an experimental basis, and (2) PBS' experimental program has demonstrated the practicability of a regular captioning system.

8. As pointed out in the Notice of Proposed Rule Making, and as demonstrated by the Commission's recent decision in Docket No. 20659 (Amendment of Part 73 of the Rules to Establish Requirements for Captioning of Emergency Messages on Television), Report and Order (FCC 76-852), released September 15, 1976, the Commission has long been interested in the promotion of procedures and facilities which, for television viewers with impaired hearing, will make available, in visual form, information normally carried on the aural channel. This was not the first expression of concern for the hearing-impaired by the Commission however.

9. In a policy statement released December 17, 1970,[3] The Use of Telecasts to Inform and Alert Viewers with Impaired Hearing, the Commission indicated its desire to alert licensees to the importance of making television a truly valuable mechanism for the hard of hearing and of our concern about the matter. Several suggestions were made by the Commission regarding program presentation techniques which could assist segments of our population, suffering from this significant handicap, and make the tremendously powerful television medium more useful to them. It was thought that these techniques could be applied, to a significant degree, without interfering with the station's service to its general audience and the Commission urged broadcasters to explore them and apply them to the extent feasible. In the intervening six years since that pronouncement, progress in this area has been disappointing except for the PBS experiment which brought about the Notice of Proposed Rule Making which is before us now for determination.

10. It should be noted that the PBS proposal was for Line 21 to "be made available for use by a program related data signal," which would be used to provide the "visual depiction of information simultaneously being presented on the aural channel." It is to be recognized, however, that the PBS proposal does not look toward the adoption of rules which would make captioning obligatory. Nor does the rule making proposal ask for the adoption of any rule governing the technique of captioning.

11. Parties participating in this proceeding have directed their comments primarily toward the specific questions, previously referred to, which were set forth in the Notice of Proposed Rule

[1] PBS timely filed an Application for Review of the Order Extending Time. We find that inadvertently this matter has not been formally acted upon by the Commission. We believe that because of the nature of the proceeding and the desire to have adequate comments that the grant of the extension of time was warranted. However, since the matter is now moot, it will be dismissed.

[2] See DHEW Publication No. (HRA) 75-1526 entitled "Prevalence of Selected Impairments," U.S. 1971. In particular, footnote 6, page 11, of the report appears relevant to this proceeding.

	Number of persons (thousands)	Percent distribution
Total with hearing problems	13,228	100.0
With bilateral hearing problems	6,414	48.5
Trouble with 1 ear only	6,225	47.1
Both ears good	336	2.5
No response	253	1.9
Total with bilateral hearing problems	6,414	100.0
Can hear words spoken in normal voice	3,878	60.5
Can hear words shouted across a room	1,740	27.1
Can hear words shouted in better ear	372	5.8
Can not hear any speech	335	5.2
No response	89	1.4

Making. We will, in the interest of orderliness, treat these comments in the context of those questions.

12. Should scarce vertical interval space be used to serve the limited purpose advanced in the proposal? PBS, in response to this question, answers that current use of the vertical blanking interval is extravagant, and, even if the proposal herein is adopted, ample capacity will remain for subsequently proposed uses. The Corporation for Public Broadcasting (CPB) contends that the present use of lines 17, 18, 19, Fields 1 and 2, accrues little benefit to the public compared to the benefit if captioning is allowed. Both the Maryland Center for Public Broadcasting and the Mississippi Authority for Educational Television also state that there is presently ample capacity in the vertical interval to accommodate both the proposed captioning system and any other services which are presently contemplated. Both the National Association of Broadcasters (NAB) and the special Ad Hoc Committee of the Joint Committee for Intersociety Coordination state that before the Commission concludes that it is advisable to set aside Line 21 for captioning it must carefully consider two propositions fundamental to this proceeding: (1) the exclusive use of Line 21 of the Vertical Interval of the television signal for captioning the aural portion of the television program, and (2) the dedicated application of the technical format for the use of Line 21 as proposed by PBS. They contend that such exclusive and limited use, as proposed, would greatly deter, if not completely undermine, further application of the vertical interval technology for other uses. Southern Broadcasting Company, in its comments, states that the PBS proposal is ill-advised and premature. CBS states that efficiency is the most appropriate measure of any proposal to use space in the vertical blanking interval. Such space is, without doubt, both valuable and scarce. Given these compelling reasons for making efficient use of vertical interval space, the inflexibility and limited versatility of the PBS system militates against its adoption. ABC contends that it would be premature to allocate a large portion of available space (in the vertical interval) to any use on an exclusive basis until there is an overall plan for use of this interval.

13. What are the prospects for accommodating shared use of Line 21? While neither PBS nor CPB specifically state that there can be no shared use of Line 21, it is clear from their comments that they do not wish to accept any other usage of Line 21, but rather that it be set aside on a fulltime, permanent basis, for captioning. Southern Broadcasting believes that there should be provisions for shared use, that the needs of the vast majority of television viewers must be taken into account in the proceeding. CBS, on the other hand, states that the Commission should be economical in the allocation of vertical interval space and that time-sharing of Line 21 may not be desirable or even possible. They point out that one obvious problem with the sharing of Line 21 would be the creation of an operational restraint in that the captioning signal and any other signal sharing Line 21 could not be transmitted simultaneously. Both Electronic Industries Association-Consumer Electronics Group (EIA-CEG) and GTE Sylvania recommend that the Commission adopt a "shared use" approach and not limit the use of Line 21 for captioning so that it could also be used for the transmission of broadcast-related data signals. JCIC believes that shared use of Line 21 is probably not feasible. It states that time-sharing possibilities cannot really be assessed without knowing the nature of the signal which would share Line 21 with the captioning signal. PBS in its reply comments urges that exclusive reservation of Line 21 is desirable and justified and that sharing should not be considered. Sharing, they contend, would degrade reliability of the proposed system (it would introduce a noisy-type environment); would introduce unnecessarily costly complexity in the decoder; and would impede development of decoders because of uncertainty regarding the nature of signals decoders would have to reject. They further state that sharing of Line 21 for other purposes, when the program being telecast is not captioned, is undesirable because it would give rise to competition for use of Line 21 and thus discourage growth of all systems by virtue of the spectre of Line 21 not being available at some particular time.

14. If sharing is feasible, should captioning be made a priority use? While none of the commenting parties addressed this specific question to any degree, it does appear that both CPB and PBS would, if sharing was determined to be feasible, prefer that captioning for the hearing-impaired be given priority status. The other commenting parties contend that without sufficient knowledge as to what other possible uses are to be shared, they cannot determine which use should have a priority status.

15. What foreseeable uses for the vertical interval would be precluded by adoption of the proposal? Maryland Center for Public Broadcasting, Mississippi Authority for Educational Television and PBS contend that any services likely to be suggested for the foreseeable future could be accommodated along with the captioning proposal. They do not list any specific uses, however, only using the conclusionary language set forth above. NAB believes that other uses for the general public might be precluded if the Commission were to adopt the PBS proposal They list the following examples of such uses. A general program sound channel, an emergency sound channel, emergency action notification alerting, data transmission, facsimile transmission and channel identification. They go on to note that a limited use, such as for captioning only, would greatly deter, if not completely undermine, further application of the vertical interval to other uses. JCIC states in its comments that the question cannot be answered adequately until tests are completed concerning the feasibility of using lines in addition to lines 17 through 21 and developments looking toward use of higher data rate and space for a program adaptive equalizer signal are farther along. PBS in its reply comments characterizes the discussion in the industry to date about future use of the vertical interval as "speculation." They note that suggestions advanced in the industry comments regarding teletext type service [4] and SID (Source Identification Signal) has not been backed up by the filing of a petition for rule making. PBS claims that if other possible uses of the vertical interval are subsequently proposed, there will be room for them; and if no proposals are advanced, there is no need for concern about the capacity of the vertical interval. CBS in its comments points out that adoption of the PBS proposal could preclude implementation of a "teletext" type service such as Ceefax and Oracle which are presently being tested in Great Britain.[5]

16. Is the current use of the vertical interval extravagant, i.e., may some of the current vertical interval signals satisfactorily serve their intended function using less vertical interval space than at present? NAB states in its comments that there does in fact appear to be a need for a complete review of the number of lines devoted to particular test functions and also states that there is an urgent need to bring about the standardization of such signals. CBS also believes that the current use of the vertical interval is extravagant and that consistent with this belief, urges the Commission to cut in half the number of lines in the vertical interval presently allocated to Vertical Interval Test Signals (VITS). JCIC in its comments also alludes to extravagant use of the vertical interval. CPB makes an unsubstantiated statement with reference to the present use of the vertical interval being extravagant and that the capacity of the vertical interval would remain far from fully utilized even if Line 21 were reserved for the proposed system. PBS suggests that it might be possible to juggle some of the current uses of the vertical interval so as to make additional space available for future uses.

17. To what extent are potential users of the information carrying capability of vertical interval signals interested in exploiting this technology? PBS and CPB have both expressed their interest in using this technology to provide captioning for the hearing-impaired by means of closed captions on Line 21. WGBH Educational Foundation (Boston) commenced operations of a caption center in 1970. In 1975 they started pro-

[3] 26 F.C.C. 2d 917 (1970) (FCC 70-1328).

[4] A high data-rate system, using spacing in the vertical interval, capable of providing a multiplicity of services, including captioning.

[5] Ceefax and Oracle are names given to teletext type systems presently being tested.

ducing, in "open" caption form, the "Captioned ABC News," the only national television news service for the hearing-impaired. This program is presently carried on more than 125 member stations of the PBS. WGBH also states that, in addition to this captioning, they do captioning for various other television programs. They urge adoption of the PBS proposal in furtherance of the captioning effort. NAB points out in its comments concerning captioning costs, that even assuming the PBS estimate is appropriate, it must be recognized that station utilization of this technique will be minimal at best and that a substantial number of stations would not employ the use of captioning at all. Southern Broadcasting also states that because of the costs, even if you accept the PBS estimate, many stations will not voluntarily undertake to caption programs, especially those stations outside of major markets. CBS states that it has examined and re-examined the PBS proposal and that it finds shortcomings and inadequacies which far outweigh its advantages, Therefore, CBS does not contemplate any near term entry into the field of program captioning or the broadcasting of such programs. CBS' basis for such a decision is stated as (1) time problems—insufficient time to caption because program suppliers are sometimes unable to deliver programs sufficiently in advance of air time, (2) certain programs (such as "60 Minutes," news broadcasts, musical variety shows, live news conferences and sports events) do not lend themselves to captioning, (3) once a program has been captioned no further editing can be done to handle such matters as a five minute political broadcast and (4) degrading effects of moving one generation farther from the "master" tape. NBC and ABC both believe it would be premature to adopt the PBS proposal and further point to similar difficulties as those set forth in the CBS comments. Eastman Kodak Company in its comments supports the enhancement of television service to the deaf and hearing-impaired. However, Eastman, because of a number of uncertainties, seriously questions the desirability of reserving so large a portion of the remaining vertical blanking interval for this single purpose. It notes particularly that the PBS proposal is incompatible with film. They point out that at the present time 64 percent of the prime-time network programming is originated on film. If you add to that the movies shown on TV the figure raises to 77 percent. Additionally, a survey of selected independent stations reflects that approximately 68 percent of their total programming consists of film. All three networks support the statement of Eastman Kodak regarding filmed programs. PBS in its reply comments acknowledges the problems with captioning on film, but states that it believes this problem can be eventually solved. EIA-CEG maintains that the public interest will best be served by designating the PBS proposal as temporary for a testing period of 3 years, permitting testing of other data rates and formats, permitting shared use with broadcast-related signals, and providing for a review at the end of two years. They also state that TV receiver manufacturers, even if they started today to develop a receiver with an integral decoder, would require at least 2 years to get a receiver on the market.

18. Additionally, parties were invited to discuss the cost estimates of the encoder and decoder equipment and the captioning of programs, particularly in regard to their impact upon anticipated actual use of the service. PBS in its initial proposal estimated the cost of a decoder to be about $100 if manufactured in quantity. Additional cost estimates were given for other captioning requirements. It stated that there would be a capital investment of some $25,000 to $50,000 for encoding equipment and that the cost of captioning a one hour program was approximately $1,000. It should also be pointed out that PBS indicated in its petition, as well as in its comments, that 94 percent of the test viewers wanted a decoder in their homes. Southern Broadcasting questions the cost estimates of PBS, but offers no substantive data to support its conclusion. They state that the Commission must examine closely the costs of such proposal. CBS in its comments submitted a cost analysis of captioning a one hour segment of "The Waltons." CBS stated that the captioning was done adhering to "CBS standards of artistic quality, including doing justice to the original author, screen play and producer." The cost for captioning this program was $3,800. NBC states that it believed there were serious practical problems in the implementation of the PBS proposal. They submit data which reflect investment cost requirements of approximately $500,000 compared to the $25,000 to $50,000 estimated by PBS.* As to the cost of captioning a one-hour program, NBC estimates $7,600 compared to $1,000 as estimated by PBS. ABC states that it believes the cost of the decoders will probably be higher than that estimated by PBS. They also state that the number of people required and the cost of encoding are believed to be significantly higher than the estimates contained in the proposal of PBS. PBS, in its reply comments, disagrees with contentions of networks that cost of captioning will be substantially greater than PBS has estimated. They suggest that the network estimates are based on much more elaborate installation than necessary. Additionally, PBS states that even if the networks' cost estimates are accurate, costs for captioning are indeed modest when considered in relation to cost of producing programs. JCIC contends that an add-on decoder would not be technically or economically feasible—hence the question of "decoder cost" must be considered in terms of "built-in" decoders. They go on to state that receiver industry representatives agree that $100 at the retail level is a valid "ball park" figure if production runs are in the order of 100,000 units, and do not include adaptive equalizer circuitry. EIA-CEG states that the potential market for decoders is unknown and will be significantly influenced by the amount of available captioned programming. They further state "receiver manufacturers maintain that a decoder as an add-on to receivers in the public's hands is not practical. Safety, warranty, cost, and compatibility problems of making a decoder suitable for a number of different receiver designs all dictate against it." WGBH concludes in its comments that the cost and time estimates for captioning programs should be considered only as tentative.

In any event, "the caption costs should only be a very small percentage of actual production costs." GTE Sylvania comments that the limited market would not provide sufficient incentive for TV receiver manufacturers to market receivers with costly decoders. They also support the comments of EIA-CEG. PBS in its reply comments excepts to the industry contention that add-on decoders are impractical. It concedes, however, that an add-on decoder is more expensive than a built-in decoder. It claims that the extra cost would be far from prohibitive and that the choice of either a built-in or an add-on decoder should be left to the wisdom of the marketplace. It offers that if the proposed rules are adopted, PBS plans to undertake further developmental efforts regarding decoders. PBS considers that decoder circuitry for an adaptive multipath equalizer signal might double the cost of a decoder but takes the position that a purchaser would have the option of buying a device with or without such circuitry. It also contends that substantial cost reduction should result from PBS' continued developmental work on integrated circuits and related technology for captioning. PBS believes that the total market for decoders will be greater than just the hearing-impaired, suggesting that captioning in a foreign language and the usefulness of captions for persons learning the English language may expand the market.

19. Comments were also sought, in the light of economic and other pertinent factors, on any matters concerning the application of captioning to programs in general and ultimate use of the captioning system. PBS states that it has spent a great deal of time and effort in developing the proposed captioning system and believes that it does represent an efficient use of Line 21. WGBH fully supports the PBS petition to reserve Line 21 for captioning for the hearing-impaired, noting that it would not require any broadcaster to provide captioned programming. NAB points out that there are alternatives to captioning which many with hearing impairments might find just as useful. It identifies devices such as conventional hearing aids, and an infrared device for use with a specially designed headset without cords or other

* $400,000 for equipment and installation and $120,000 over 5 years for maintenance, space and spare parts.

impeding devices. According to NAB, as well as some other commentators, this latter device has wide application in West Germany and is meeting with wide acceptance and success by the hearing-impaired. NAB also comments on the fact that the PBS selection of a relatively low data rate is questionable. They favor a higher data rate which carries the potential to offer a multiplicity of services, which, they contend, results in more efficient use of the vertical interval. NAB believes complete flexibility must be maintained to provide for this possible application. The NAB believes there are simply too many unresolved questions which make it impossible to support adoption of the Notice of Proposed Rule Making. Therefore they urge the proposal not be adopted pending further effort concerning the matter.

Southern Broadcasting suggests that if the proposal is adopted, implementation can be achieved on a rotating basis among stations in a market. Another alternative would be to designate a particular station in each market to be the caption station, or the system could be used by cable systems which originate their own programming. Southern characterizes the approach set forth by PBS as "an * * * 'all or nothing' approach whereby line 21 would be reserved for the deaf on all stations, with no provision for the needs of the vast majority of television viewers; a sledge-hammer approach showing no sensitivity to the balancing of interests and carrying a basically sound idea much too far. CBS states that as to the limited available vertical space—efficiency is the most appropriate measure of the strength of any proposal to use vertical interval space. Such space is, without doubt, both valuable and scarce. Given these compelling reasons for making efficient use of the vertical interval, the inflexibility and limited versatility of the PBS system militates against its adoption. NBC raises an issue as to the limited size of the market. True, they say, there are approximately 14 million people in the U.S. with hearing problems. However, it contends that there are only about 335,000 people who cannot hear any speech. Therefore, the remaining 13 million plus could be assisted by sound amplification. They conclude that the potential market would be reduced further (below 335,000) by these factors: (a) visual inability to use captioning; (b) inability to read English; and (c) inability to afford the device. EIA–CEG also points out its concern as to the market size. It expresses the belief that the probable market size is 1.8 million rather than approximately 14 million as stated by PBS. JCIC suggests that sound amplification systems might be a better short-term solution to meeting needs of the hearing-impaired and an effort which looks toward more efficiency, in terms of use of limited vertical interval space, and more versatile captioning techniques should be pursued for a long-range solution. The "Committee is convinced that the PBS proposal does not represent an efficient use of the available space, and if adopted, could constitute a grave disservice to the hearing-impaired community by encouraging the purchase of new television receivers with built-in decoders which would have such limited utility and which would be made obsolete by any future high data-rate decoder." ABC states that it believes that the Commission should defer action on the PBS proposal until the Ad Hoc Committee of the JCIC issues its report on the studies it is conducting to determine if other (other than 17, 18, 19, 20 and 21) vertical interval lines are feasible for ancillary signals. NBC states that apart from technical and engineering questions, it believes that adoption of such rules may prove an expensive disappointment to those it is meant to help; the economics of the captioning proposal raises a strong probability that little use will be made of line 21 if it is devoted to this purpose; and that therefore scarce vertical blanking space should not be devoted to the proposed captioning. In its reply comments, PBS contends that the only real policy issue which need be addressed by the Commission is whether or not adoption of the proposed rules will preclude more important future uses of the vertical interval. Program related services using the vertical interval must be given top priority when considering all potential uses of the vertical interval.

Yerker Anderson, who filed reply comments, states that licensees have an obligation to serve the hearing-impaired. Size of the hearing-impaired community is not truly a factor—all citizens are entitled to adequate service. He suggests that the Commission should consider a "willingness to serve all individuals [as] one of the criteria in awarding a license." He also states that current "viewing" of television by a hearing-impaired person is not "enjoying." Michael Chatoff in reply comments notes that it has been stated on the record that 65 percent of deaf individuals watch six or more hours of television on weekends. He states that this is not surprising (and not supportive of the contention that hearing-impaired enjoy TV despite present lack of captions) since a large segment of available programming on weekends is sports, and sports can be enjoyed without captions. Mr. Chatoff urges that costs should not be a factor for broadcasters since they enjoy use of a public resource and profit thereby. They have a responsibility to contribute toward serving the hearing-impaired. PBS in its reply comments states that the proposal would permit the television industry to make available to 13.4 million Americans with impaired hearing a fuller use and enjoyment of this country's single most pervasive medium of information and entertainment. PBS sees no ready alternative to closed captioning for meeting the needs of the hearing-impaired. It also believes that there is a very sizeable group of people with an identifiable need, and that the PBS proposal is a method of meeting that need which is acceptable to that group.

DISCUSSION

20. As will be observed by these many and varied comments, the Commission finds itself faced with a most difficult and troublesome decision. On the one hand we believe it is of the utmost importance that the hearing-impaired, a significant portion of our population, enjoy the tremendously powerful television medium. The Commission attempted to make this clear in the 1970 Policy Statement, *infra*. On the other hand, we find many unanswered questions, either those outlined in the *Notice of Proposed Rule Making*, or in the comments filed by the parties to this proceeding. Regardless of how we look at it, there is simply no easy solution.

21. Because of the many unanswered questions we believe that the proper approach at the present time is to permit the use of Line 21 for captioning, but not reserving it for the exclusive use of such captioning. We are concerned that were we to reserve Line 21, at this time, we would possibly defer future technological developments, such as a teletext-type system, which would provide a larger number of services, including captioning, to a larger percentage of the public. Further, we have considerable concern in regard to ultimate costs associated with the captioning technology and their effect upon ultimate implementation of the system.

22. There still remain unanswered questions regarding the cost of captioning programs, how the "adaptive equalizer" proposed by PBS will work under actual operational conditions, and to what extent captioned programs will be made available. These uncertainties dictate that we exercise caution in arriving at our decision. However, the public interest arguments, we believe, warrant the extent to which we have decided to go at this time.

23. We have considered carefully the comments addressing use of Line 21 and conclude that sharing, within the framework of the rules adopted herein, will promote development of the system advanced by the petitioner and secure its benefits for the hearing-impaired community and, at the same time, provide for more efficient use of Line 21. We are persuaded that the approach we have taken will encourage continued development of technology for using the vertical interval and will permit development of services of interest to both the hearing-impaired and a broader segment of the population, thereby expanding the potential market for decoders and promoting the prospect for making such devices available at minimum cost.

24. As noted in paragraph 8, we adopted certain rules to establish requirements for captioning of emergency messages on television (Docket 20659). In that proceeding we stated that "any questions of compatibility between open and closed captioning systems will be dealt with in Docket 20693." There does not appear to be complete resolution of the problem of compatibility. The commenting parties point out that indeed

there may be conflicts between open and closed captioning "during a single emergency." We are therefore amending the proposed rules to include a new paragraph (e) which will provide for priority treatment to be given visual emergency messages which are transmitted pursuant to § 73.675 of our rules.

25. In the *Notice of Proposed Rule Making* (FCC 76-72) we stated that the PBS proposal offers a fully developed technical system by which captioning can be provided so as to afford a much broader range of programming to those hearing-impaired persons willing to invest in decoders, without, in any way, interfering with the viewing of the much larger audience not needing this aid. Many arguments have been made by the commenting parties as to why we should not go forward with the adoption of any rulse concerning captioning, however, there seems to be little, if any, disagreement among the parties that persons with impaired hearing should be able to enjoy television programming. The basic differences seem to center on the best way to provide a service so that this may be accomplished.

26. In considering the various comments as to the possible means of providing this service, i.e. captioning or auditory devices, we must take into account the fact, as JCIC noted in their comments, as many as 2 million Americans may have sufficient loss of hearing so as to be unable to enjoy television programming without assistance from captioning of some type (open or closed). The PBS proposal would go far in making some programming available, incorporating closed captioning, wherever licensees voluntarily provide such service and people are willing to invest in a decoder to receive such programming.

27. We must, however, make it absolutely clear to the public and to the licensees that our decision herein does not make captioning obligatory. We continue to encourage broadcast licensees, as we did in our Public Notice of December 17, 1970, to make television a truly valuable medium for the hearing-impaired. We believe that licensees can and will be responsive to the needs of its viewers, but it is still the responsibility of each licensee to determine how it can most effectively meet those needs.

28. Therefore, based upon all of the comments filed in this proceeding and in view of the public interest to be served, the Commission's rules will be amended to permit closed captioning on Line 21 of the vertical interval for visual display of aural material accompanying a television program. In addition, we will permit the use of Line 21 for display of non-program related material of a broadcast nature during the times when program related captioning is not being displayed. Although the data format for these uses is specified, other data signals conforming to other formats will be considered on an individual basis.

29. Accordingly, *it is ordered*, That pursuant to the authority contained in sections 1, 4(i) and (o) and 303(g) and (r) of the Communications Act of 1934, as amended, Part 73 of the Commission's rules is amended, as set forth below, effective March 1, 1977.

30. *It is further ordered*, That the Application for Review of the Order Extending Time filed by the Public Broadcasting Service on March 5, 1976, is dismissed as moot.

31. *It is further ordered*, That this proceeding is terminated.

(Secs. 1, 4, 303, 48 Stat., as amended, 1064, 1066, 1082; 47 U.S.C. 151, 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION[1]
VINCENT J. MULLINS,
Secretary.

1. Section 73.681 is amended by inserting the following definition immediately preceding "Reference black level":

§ 73.681 Definitions.

* * * * * *

Program related data signal. A signal, consisting of a series of pulses representing data, which is transmitted simultaneously with and directly related to the accompanying television program.

* * * * * *

2. Section 73.682(a)(22) is amended as follows:

§ 73.682 Transmission standards and changes.

(a) * * *

(22) (i) All of Line 21, Field 1 and the first half of Line 21, Field 2 may be used for the transmission of a program related data signal which, when decoded, provides a visual depiction of information simultaneously being presented on the aural channel. Such data signal shall conform to the format described in Figure 17a of Section 73.699 and may be transmitted during all periods of regular operation.

(A) A reference pulse for a decoder associated adaptive multipath equalizer filter may replace the data signal every eighth frame. The reference pulse shall conform to the format described in Figure 17b of Section 73.699.

(B) A decoder test signal consisting of data representing a repeated series of alphanumeric characters may be transmitted at times when no program related data is being transmitted.

(C) A framing code to be used by the data decoder may be transmitted during the first half of Line 21, Field 2 when data, reference pulse and test signals are present. See Figure 17c of Section 73.699 for a description of the format for the framing code.

(D) The data signal shall be coded using a non-return-to-zero (NRZ) format and shall employ standard ASCII 7 bit plus parity character codes.

(ii) At times when Line 21 is not being used to transmit a program related data signal, data signals which are not pro-

[1] Separate statements of Commissioner Washburn and Commissioner Fogarty filed as part of the original document.

gram related may be transmitted, *Provided*: the same data format is used and the information to be displayed is of a broadcast nature.

(iii) The use of Line 21 for transmission of other data signals conforming to other formats may be used subject to prior authorization by the Commission.

(iv) The data signal shall cause no significant degradation to any portion of the visual signal nor produce emissions outside the authorized television channel.

(v) Transmission of visual emergency messages pursuant to Section 73.675 shall take precedence and shall be cause for interrupting transmission of data signals permitted under this subparagraph.

* * * * *

3. Section 73.699 is amended by adding a new Figure 17.

§ 73.699 Engineering Charts.

* * * * *

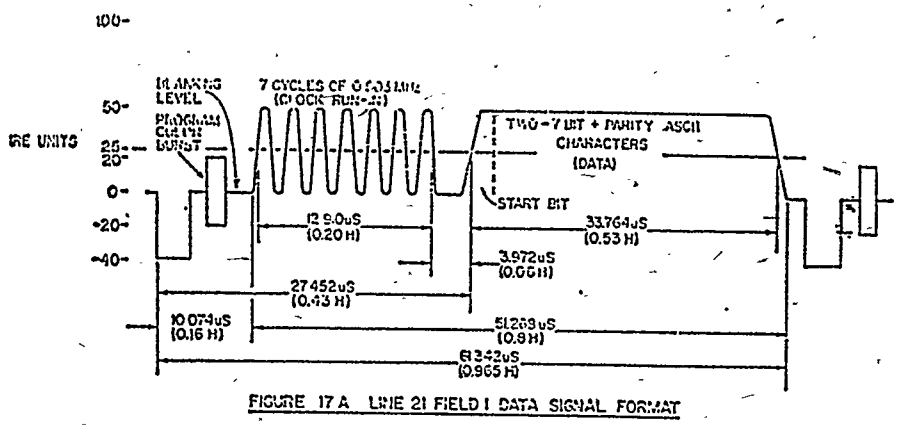

FIGURE 17 A LINE 21 FIELD I DATA SIGNAL FORMAT

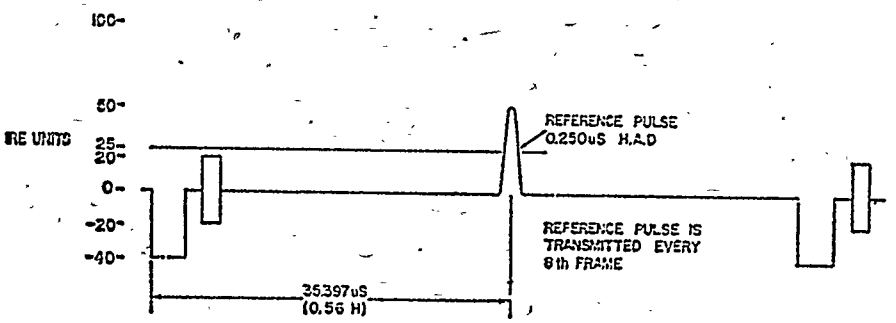

FIGURE 17 B ADAPTIVE EQUALIZER REFERENCE PULSE

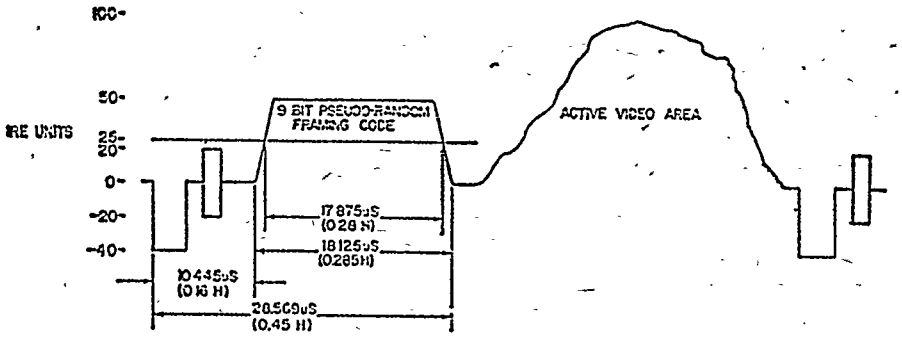

FIGURE 17 C LINE 21 FIELD TWO FRAMING CODE

FIGURE 17

HORIZONTAL DIMENSIONS NOT TO SCALE

1. DATA "1" = 50 IRE UNITS, DATA "0" = 0
2. DATA PULSE RISE TIME = 2T BAR RISE TIME.
3. DATA TIME BASE = 32 f_H (0.503496360 MHz)
4. DATA BIT INTERVAL = H/32 (1.986 uS)
5. NEGATIVE GOING ZERO CROSSINGS OF CLOCK ARE COHERENT WITH DATA TRANSITIONS.
6. DATA AND CLOCK RUN-IN COHERENT WITH H.

Section 73.699 Figure 17

APPENDIX A—COMMENTING PARTIES

American Broadcasting Companies, Inc.
Columbia Broadcasting System
Consumer Electronics Group of the Electronic Industries Association
Corporation for Public Broadcasting
Eastman Kodak Company
GTE Sylvania
JCIC Ad Hoc Committee on Television Broadcast Ancillary Signals
Joint Council on Educational Telecommunications
Maryland Center for Public Broadcasting
Michael Chatoff (reply comments only)
Mississippi Authority for Educational Television
National Association of Broadcasters
National Broadcasting Company
Public Broadcasting Service (including reply comments)
Southern Broadcasting Company
WGBH Educational Foundation (Boston)
Yerker Anderson (reply comments only)

[FR Doc.76-37842 Filed 12-27-76;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-126]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Miscellaneous Delegations

The purposes of this amendment are to:

1. Delegate to the Federal Railroad Administrator those functions relating to audit vested in the Secretary by the Rail Passenger Service, Regional Rail Reorganization, and Railroad Revitalization and Regulatory Reform Acts and revoke the delegations of these functions to the Assistant Secretary for Administration;

2. Delegate to the Deputy Secretary sole authority to act for the Secretary as member of the Board of Directors and executive committee of the Board of Directors of the United States Railway Association and revoke the corresponding delegations to the Federal Railroad Administrator and the General Counsel, under the Rail Transportation Improvement Act (October 19, 1976, Pub. L. 94-555);

3. Delegate to the Federal Railroad Administrator functions vested in the Secretary by sections 215(c), 216(a), 217 (c), and 219 of the Rail Transportation Improvement Act; and

4. Delegate to the Assistant Secretary for Administration certain functions of the Secretary relating to international affairs and equal employment opportunity.

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.49, paragraphs (q), (r), and (u) are revised to read as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

The Federal Railroad Administrator is delegated authority to—

* * * * *

(q) Carry out the functions vested in the Secretary by sections 201(i)(3); 202(b)(7); 203, except authority to issue subpoenas; 210; 212; 213; 215; 402; 403; and 601 of the Regional Rail Reorganization Act of 1973 (Pub. L. 93-236) as amended by the Rail Transportation Improvement Act (Pub. L. 94-555).

(r) Carry out the functions vested in the Secretary by subsections 4 (h) and (i) of the Department of Transportation Act, as amended (49 U.S.C. 1653 (h), (i)).

* * * * *

(u) Carry out the functions vested in the Secretary by sections 204(c); 401 except authority to issue subpoenas; 402; 403; 502; 503; 504; 505; 506, except (c); 507; 508; 511; 512; 513; 515; 517; 606; 610; 703; 704, except (c); 706; 803; 805; 810; 901; 905, as applicable; and 906 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.

§ 1.55 [Amended]

2. In section 1.55 paragraph (h) is amended by deleting the term "and finance committee".

§ 1.56 [Amended]

3. In section 1.56, paragraph (n) is revoked.

§ 1.59 [Amended]

4. In section 1.59, paragraph (l) is revoked and paragraph (m) is redesignated paragraph (n), and new paragraphs (l) and (m) are inserted, to read as follows:

§ 1.59 Delegations to Assistant Secretary for Administration.

The Assistant Secretary for Administration is delegated authority for the following—

* * * * *

(l) *International Secretariat.*

(1) Serve as the Department's point of contact in relationship with the Central Intelligence Agency and the Defense Intelligence Agency.

(2) Serve as the Department's point of coordination for foreign travel, advising operating elements of potential "overlap" in participation of overseas conferences.

(m) *Equal Employment Opportunity.* Exercise the authority of the Secretary to accept or reject internal complaints of discrimination on the basis of race, color, religion, sex, national origin, or age arising within or relating to the Office of the Secretary.

(n) *Building Management.* Carry out the functions vested in the Secretary by sections 1(b) and 4(b) (as appropriate) of Executive Order 11912.

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e)).

Issued in Washington, D.C., on December 20, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

[FR Doc.76-38093 Filed 12-27-76; 8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293 (Sub-No. 8)]

PART 1127—STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

Report and Order

Pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973 (the RRR Act), 45 U.S.C. 715(d)(5), as amended by section 309 of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, the Rail Services Planning Office (the Office) of the Interstate Commerce Commission is reopening the above-referenced rulemaking proceeding to amend the standards (49 CFR 1127) for determining commuter rail service continuation subsidies and emergency operating payments.

Quality of Service. The emergency operating assistance standard (49 CFR 1127.8) provides that the railroad and the subsidizer are entitled to be reimbursed for the "losses" or "additional costs" of providing, during the period April 1, 1976 through September 27, 1978, "the same level of commuter rail service as was provided during the 12-month period ended March 31, 1976." Section 1127.8(d) defines "level of service" as follows:

> The same level of service includes the routes, schedules, train seating capacity, performance standards, and equipment units provided during the 12-month period ended March 31, 1976, and any modifications thereof which do not increase the net avoidable loss and reasonable return on the value of the properties as determined in accordance with sections 1127.3-7 in excess of the amount which would have resulted from the service level provided during the 12-month period ended March 31, 1976. The railroad or subsidizer may be reimbursed for additional costs necessary to sustain the same level of service arising from wage or price increases or equipment purchases to the extent that the railroad (or its predecessor) had not agreed to absorb, nor the subsidizer to pay, such cost increases. The railroad or subsidizer may not be reimbursed for losses incurred in providing service on new routes; but the level of service on existing routes may be adjusted to the extent that the total of the net avoidable losses and the reasonable return, as determined in accordance with sections 1127.3-7, based on the level of service provided in the 12-month period ended March 31, 1976, is not thereby exceeded.

The emergency operating assistance regulation derives from section 304(e)(5), subparagraphs (A) and (B) of the RRR Act, which directs the Secretary of Transportation to reimburse the railroad and subsidizers, "under regulations issued by the Office pursuant to section 205(d)(5) of this Act," for continuing certain commuter rail service in the Midwest and Northeast Region. In the Rail Transportation Improvement Act (the RTIA), Pub. L. 94-555, enacted October 19, 1976, Congress added a new subparagraph (C) to section 304(e)(5) which reads as follows:

> (C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies, and agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and cost incurred incident thereto) shall be included within the meaning of the term "loss" as used in subparagraph (A) of this paragraph and within the meaning of the term "additional costs" as used in subparagraph (B) of this paragraph and section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)).

The legislative history explains the purpose of new subparagraph (C) as follows (Conference Report 94-1743, dated September 30, 1976, pp. 39-40):

> In many areas, prior to April 1, 1976, when the respective predecessor bankrupt railroads were operating the commuter services, the lack of normal maintenance procedures on track and equipment represented a state of substantial deferred maintenance and as a result the quality of service steadily deteriorated. Therefore, when [the Consolidated Rail Corporation (Conrail)] assumed the responsibility for the operation of commuter services, it was unclear as to whether Conrail should maintain the same level of service or the same level of deterioration of service. For example, there are many instances where coach doors will not remain shut in winter, or won't remain open in summer, resulting from a lack of adequate preconveyance maintenance procedures. This coupled with the old equipment built over a half century ago, has increased the frequency and acuteness of problems such as these. Unless the level of maintenance is upgraded to provide a catch-up for past deferred maintenance techniques, the rate of deterioration will simply continue. * * *
>
> As the intent of Congress to allow Conrail to be compensated for providing an attractive and quality commuter service as opposed to continuing the bankrupt railroad practices of deferred maintenance, the clarifying amendment allows Conrail to provide a quality service with assurance of retroactive compensation. It also enables the commuter authorities, as intended by Congress, to continue the same level of payments and to not experience further deterioration.

The Urban Mass Transportation Administration (UMTA), which administers the commuter emergency operating assistance program for the Secretary of Transportation, advised the Office by letter, dated November 30, 1976 (see Appendix A hereto), that it believes new paragraph (C) "should be considered to

be limited to fairly short-range maintenance requirements which are directly related to the continuation of service in accordance with the schedules in effect just prior to April 1, 1976," and should "not be construed to authorize [emergency operating assistance] to pay for long-range, major track rehabilitation programs to upgrade rail facilities to a much higher standard than prevailed in the recent past."

The emergency assistance regulation, as presently framed, would allow the railroad and the subsidizer to receive reimbursement from UMTA for expenditures to provide "an attractive and quality commuter service" (Conference Report, p. 39), including the "fairly short-range maintenance requirements" noted in UMTA's November 30, 1976 letter. However, the Office does consider it appropriate to amend § 1127.8 to conform it with the RTIA and is revising paragraph (d) as set forth below.

Value of Properties and Reasonable Return. Section 304(c) of the RRR Act provides that:

> If a rail service continuation payment is offered, pursuant to paragraph (2)(A) of this subsection, for both freight and passenger service on the same rail properties, the owner of such properties may not be entitled to more than one payment of a reasonable return on the value of such properties.

Section 1127.6(b) of the standards provides that the value of rail properties on which a reasonable return is allowed shall not include the value of properties owned by public bodies or the trustees of debtor estates. (For a discussion of the rationale, see 41 FR at 20108, 26938, and 32551.) At the time the italicized words were adopted, the Office understood that no circumstances would arise in which subsidized commuter services only (and no subsidized freight services) would be performed using rail properties owned by the trustees of debtor estates, and this seemed the simplest way of avoiding the "double return" prohibited by the statute. It now understands that one or two such circumstances have arisen, and therefore is amending § 1127.6(b) as set forth below.

Other Matters. The Office is making certain technical amendments to the standards, to add Account 406—Drawbridge Operation to § 1127.5(h)(1); to correct § 1127.5(e)(15) to exclude Account 247 from the apportionment basis; and to substitute Account 256 for Account 265 in § 1127.5(k).

The Office has received informal requests from interested parties for interpretations of the standards and believes it would be useful to establish a procedure for the issuance of declaratory rulings. A new § 1127.10 has been added for that purpose.

The Office believes that the amendments adopted in this report are essentially pro forma and should be made effective immediately so that the parties will be fully aware of their rights and obligations for the second subsidy period. However, it is serving the report on all parties which have participated in the earlier phases of this proceeding and will entertain petitions for reconsideration from any interested party filed within thirty days of the publication of this report in the FEDERAL REGISTER.

ORDER

In light of the foregoing:

It is ordered, That the proceeding to formulate standards for determining commuter rail service continuation subsidies and emergency operating payments, pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973, as amended, is hereby reopened for the purpose of amending the standards.

It is further ordered, That Part 1127 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations be amended by making the changes set forth below to the standards adopted on August 3, 1976.

And, *it is further ordered,* That the amendments shall be effective December 28, 1976.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Issued December 15, 1976, by Alan M. Fitzwater, Director, Rail Services Planning Office.

ROBERT L. OSWALD,
Secretary.

§ 1127.5 Avoidable costs of providing service.

1. § 1127.5(e)(15) is amended to read as follows:

* * * * *

(e) * * *

(15) *Account 201—Superintendence; Account 274—Injuries to persons; Account 275—Insurance; Account 276—Stationary and printing; Account 282—Other expenses.* The common costs assigned to these accounts shall be apportioned on the ratio of the commuter service amounts in Accounts 202–265 (except Account 247), 269–273, 278, 279 and 281 in the designated area to the railroad's total for these accounts in the designated area.

* * * * *

2. § 1127.5(h)(10) is amended by revising the heading to read as follows:

* * * * *

(h) * * *

(10) *Account 404—Signal interlocker operation; Account 405—Crossing protection; Account 406—Drawbridge operation.* * * *

* * * * *

3. § 1127.5(k) is amended by deleting the number "465" [which appears in the eighth line of the section as printed in the FEDERAL REGISTER of Tuesday, August 3, 1976 (41 FR 32558)] and substituting the number "456".

4. § 1127.6(b) is revised to read as follows:

§ 1127.6 Value of rail properties.

* * * * *

(b) The net book value of those roadway and structures properties which are used in commuter services and which could be disposed of if commuter services were discontinued. Such net book value shall include the net liquidation value of the properties as of April 1, 1976, determined for their highest and best use for other than rail transportation purposes, plus the value of additions and betterments after that date for commuter service, less depreciation accrued from that date. It shall not include the value of properties owned by public bodies or of properties owned by the trustees of debtor estates if such properties are entitled to a return computed under 49 CFR 1125.7.

* * * * *

5. § 1127.8(d) is revised to read as follows:

§ 1127.8 Emergency operating assistance.

* * * * *

(d) *Level of service.* The same level of service includes the routes, schedules, train seating capacity, performance standards, and equipment units provided during the 12-month period ended March 31, 1976, and any modifications thereof which do not increase the net avoidable loss and reasonable return on the value of the properties as determined in accordance with sections 1127.3–7 in excess of the amount which would have resulted from the service level provided during the 12-month period ended March 31, 1976. The level of service shall be measured by train miles, car miles, or other appropriate indicia of scheduled train movements. The railroad or subsidizer may be reimbursed for additional costs necessary to provide an attractive and quality commuter rail service, arising from

(1) Wage or price increases,

(2) Equipment purchases, or

(3) Short-range programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort; provided however, that neither the railroad (or its predecessor) had agreed to absorb, nor the subsidizer to pay the cost increases arising from (1)–(3) above. The railroad or subsidizer may not be reimbursed for losses incurred in providing service on new routes; but the level of service on existing routes may be adjusted to the extent that the total of the net avoidable losses and the reasonable return, as determined in accordance with sections 1127.3–7, based on the level of service provided in the 12-month period ended March 31, 1976, is not thereby exceeded.

* * * * *

6. Part 1127 is amended by adding a new § 1127.10, reading as follows:

§ 1127.10 Interpretations of the standards.

Parties desiring an interpretation of the standards should file a written petition citing the section involved and setting forth their position and rationale. If the request arises from a dispute with other parties, the petitioner should identify those parties and serve each of them with a copy. Parties desiring to file a reply must do so within 10 days of their receipt of the petition. The Office will issue an interpretation, unless it concludes that the matter raised requires amendment of the standards, in which case the Office will institute a rulemaking proceeding.

APPENDIX A—OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C., *November 30, 1976.*

Mr. ALAN M. FITZWATER
Director, Rail Services Planning Office 1900 L St., 5th Floor, Washington, D.C. 20036.

DEAR MR. FITZWATER: On October 19, 1976, the President signed the Rail Transportation Improvement Act of 1976 (P.L. 94-555), which, among other provisions, amended Section 304(e) (5) of the Regional Rail Reorganization Act of 1973 by inserting a new subparagraph which may have a significant effect on the level of subsidy for commuter services operated by the Consolidated Rail Corporation (Conrail). Since your office has issued regulations for determining both the level of subsidy which is to be required under Section 304(e) to continue these services, and the level of emergency operating assistance which is to be granted by the Department of Transportation under Section 17 of the Urban Mass Transportation Act of 1964, we wish to advise you of our present interpretation of the scope of this new provision, which will guide our administration of the Section 17 program in the absence of an objection by your office.

The new subparagraph 304(e) (5) (C) reads as follows:

"(C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies and agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and costs incurred incident thereto) shall be included within the meaning of the term "loss" as used in subparagraph (A) of this paragraph and within the meaning of the term "additional costs" as used in subparagraph (B) of this paragraph and section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613 (a)(2))."

The purpose of this amendment, in the words of Representative Howard of New Jersey during the debate on the House floor, is "to simply clarify that the inclusion of deferred maintenance as a reimbursable item under Section 17 of the Urban Mass Transportation Act is permissible."[1] Representative Howard noted that the amendment was not intended to "call for any new or additional authorizations of money," and that it was addressed to such maintenance needs as malfunctioning doors on passenger cars, deterioration of air-conditioning systems, and unrepaired windows and lavatories. Both the nature of these examples and the explicit denial of any intention to create additional Federal financial obligations suggest that this paragraph should be considered to be limited to fairly short-range maintenance requirements which are directly related to the continuation of service in accordance with the schedules in effect just prior to April 1, 1976.

The new language should, therefore, not be construed to authorize Section 17 to pay for long-range, major track rehabilitation programs to upgrade passenger rail facilities to a much higher standard than has prevailed in the recent past. Congress has already authorized funds for this purpose in the Northeast Corridor Project and in Title II of the Railroad Revitalization and Regulatory Reform Act. For tracks and facilities outside the Northeast Corridor or the Final System Plan which are used in commuter service, the monies authorized under Sections 3 and 5 of the Urban Mass Transportation Act are available for major rehabilitation projects. Section 17, as an emergency operating assistance program, should not be used for these purposes, both because of the limitation on the available funds and because such a policy would give an undue advantage to those particular rehabilitation projects which affect services subsidized through Section 17. Any funds which are made available for major rail rehabilitation should be equally open to all applicants with capital needs in this category, without regard to whether the service provided through the use of the rehabilitated facilities lies within the scope of Section 304 (e) of the RRR Act and Section 17 of the UMT Act.

This view of the scope of Section 17 clearly implies that any expenditure for maintenance or rehabilitation relating to a railroad's list of "deferred maintenance" in its statements to the ICC and FRA cannot, *ipso facto*, be considered a reimbursible item under Section 17. We have estimates that the total deferred maintenance applicable to the reorganized railroads approaches one billion dollars. Even allowing for the fact that much of this is related to properties and facilities not used in commuter service, it is clearly far beyond the scope of DOT's emergency operating assistance program to pay for the correction of all the deterioration of commuter-used facilities caused by this deferral of maintenance.

DOT is, of course, committed to the preservation and improvement of high-quality urban transportation services, including commuter rail services. We fully intend to use the Section 17 program to support normal and prudent levels of maintenance for vehicles and facilities used by Conrail in providing such services. Such maintenance should, in most cases, be planned on the premise that commuter service will continue at present (or higher) levels for the foreseeable future (i.e., that it will not terminate with the expiration of DOT assistance in September, 1978). We recognize that maintenance which is planned and conducted on this basis will be substantially more costly than the levels of maintenance which were being performed by the bankrupt railroads prior to reorganization, and our budget projections for Section 17 allow for this cost increase. It is only major, long-range rail rehabilitation projects which we intend to exclude from the Section 17 program.

In order to prevent uncertainty among the commuter authorities and Conrail, and to avoid a situation where UMTA may refuse to reimburse for an already completed major "deferred maintenance" project, we are suggesting that our grantees seek prior UMTA approval for significant deferred maintenance projects such as the repair of bridges or large sections of running track.

In the interests of fairness, we are distributing copies of this letter to all the parties to your proceeding "Ex Parte No. 293 (Sub. No. 8)," and to all of our applicants for Section 17 assistance.

Sincerely,

DONALD T. BLISS,
Deputy General Counsel.

[FR Doc.76-37908 Filed 12-27-76;8:45 am]

[1] Congressional Record, September 27, 1976, p. H 11129.

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 21—MIGRATORY BIRD PERMITS

Extension of Interim Falconry Rules

On October 26, 1976, the United States Fish and Wildlife Service published a notice of proposed rulemaking with respect to Part 21 of Chapter I, Title 50, Code of Federal Regulations (41 FR 46873). The notice proposed two actions. First, it was proposed to delay implementation of a newly-established Federal Standards for State laws and regulations relating to falconry until December 31, 1977. Second, it was proposed to extend currently effective interim Federal falconry rules until the same date.

Comments concerning the proposal were received from the Society for the Preservation of Birds of Prey, the Committee for Humane Legislation, Inc., the Humane Society of the United States, the North American Falconers Association, the Institute for the Study of Consciousness, the Ecology Center of Southern California, the California Department of Fish and Game, and several individual persons.

Many of the comments received expressed opposition to the proposal. This opposition was based primarily on the belief that a State which fails to comply with Federal standards by the established deadline lacks commitment to responsible regulation of falconry and should be precluded from governing the sport within its jurisdiction.

Response favoring the proposed rulemaking was also received. Those supporting the proposal offered opinions concerning raptor population dynamics and made reference to the existence of current interim Federal falconry rules.

After careful consideration of all the comments received, the Service believes

that final rulemaking with respect to the proposal is appropriate. Information from individual States indicates that the amount of time presently allotted for development of Federally-approved falconry programs is inadequate because of a number of factors. Among those factors are short or infrequent legislative sessions, which preclude timely enactment of enabling legislation; inexperience of State agencies with the sport of falconry, which prevents expeditious development of satisfactory regulations; and inflexibility of budgets, which make State implementation and enforcement of acceptable programs infeasible.

This amendment constitutes a substantive rule which relieves a restriction within the meaning of Section 553(d)(1) of Title 5, United States Code, and therefore shall be effective December 28, 1976.

Dated: December 22, 1976.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

In consideration of the foregoing, § 21.28(b) of Part 21, Chapter I, Title 50, Code of Federal Regulations, is hereby amended to read as follows:

§ 21.28 Falconry permits.

* * * * *

(b) Interim rules. The rules contained in this paragraph shall apply to all States not listed in § 21.29(k), until December 31, 1977. The practice of falconry in States which are listed in § 21.29(k) shall be governed by § 21.28, as amended, and § 21.29.

[FR Doc.76-38050 Filed 12-27-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

GUARANTEED LOAN PROGRAM FOR BULK POWER FACILITIES

Proposed Revision of REA Bulletin

Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 20–22, Guarantee of Loans for Bulk Power Facilities, issued February 4, 1975. This REA bulletin sets forth REA policies and requirements concerning the guaranteeing, under section 306 of the Rural Electrification Act, of loans made by legally organized lending agencies for bulk power facilities.

The proposed revisions relate to: (1) The consideration of guaranteeing certain loan arrangements involving variable interest rates, and (2) permitting assignments of the contract of guarantee in accordance with the revision of the Rural Electrification Act dated November 4, 1975. The proposed revisions are as follows:

(1) Add at the end of paragraph III.C: "If an applicant's preferred proposal provides an interest rate which is not fixed but varies during the term of the loan, the applicant's evaluation shall also particularly address that aspect of the proposal, including effects on the feasibility forecast and protection against lender's control of the rate variations."

(2) Add the words "or assignments" in paragraph VI, line 2, after the word "pledging."

Interested persons may submit written data, views or comments to the Assistand Administrator—Electric, Rural Electrification Administration, Room 4056, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, on or before January 27, 1977. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Assistant Administration—Electric.

A copy of the proposed revision of REA Bulletin 20–22 may be secured in person or by written request from the Office of the Assistant Administrator—Electric.

Dated: December 17, 1976.

DAVID A. HAMIL,
Administrator.

[FR Doc.76-37806 Filed 12-27-76;8:45 am]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed New Specification for Type A Telephone Sets

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 90 et seq.), REA proposes to issue REA Bulletin 345–74 to announce a new REA Specification PE–41 for Type A Telephone Sets. On issuance of REA Bulletin 345–74, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the new specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than on or before January 27, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of he new REA Specification PE–41 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of the new REA Bulletin 345–74 announcing the issuance of the new specification is as follows:

REA BULLETIN 345–74

SUBJECT: REA SPECIFICATION FOR TYPE A TELEPHONE SETS

I. *Purpose.* To announce the issuance of new REA Specification PE–41 for Type A Telephone Sets.

II. *General.* REA Specification PE–41 sets forth requirements for standard telephone sets using carbon transmitters. The requirements are based on transmission and signaling parameters of existing available sets, with an emphasis on mechanical performance. It becomes effective July 1, 1977. All sets furnished to REA borrowers after this date must meet the requirements of this new specification.

III. *Availability of Specification.* Copies of the new PE–41 will be furnished by REA upon request. Questions concerning the new specification may be referred to the Chief, Station Equipment and Protection Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–3173.

Dated: December 20, 1976.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc.76-37900 Filed 12-27-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 239]

[Release No. 33–5792; File No. S7–666]

SHORT FORM REGISTRATION FOR CERTAIN PRIMARY FINANCING

Advanced Notice of Proposed Rulemaking

The Securities and Exchange Commission today announced that it is considering possible amendments to Form S–16 (17 CFR 239.27) which would make that form available to a limited category of large companies for use in registering certain primary offerings of securities under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). The Commission is requesting comments by interested persons on the efficacy of and possible conditions on the use of Form S–16 for primary financing, although it is not publishing specific proposed rulemaking provisions at this time.

This announcement was made at the same time that the Commission announced the adoption of other amendments to Form S–16 and Form S–7 (17 CFR 239.26) which make these forms available to a large number of issuers.[1] As amended, Form S–16, a registration form which is comparatively simpler and shorter than other available registration forms, is available to issuers who meet the requirements for use of Form S–7[2] for the registration of only certain types of offerings, including: (1) certain outstanding securities to be offered for the account of persons other than the issuer; (2) securities to be offered upon conversion of outstanding convertible securities of the issuer or an affiliate of the issuer; and (3) securities to be offered upon the exercise of outstanding transferable warrants issued by the issuer.

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[1] See Rules and Regulations in this issue at p. 56301, Securities Act Release No. 33–5791 (December 20, 1976)

[2] Generally, a registrant may use Form S–7 if it (a) has a class of securities registered under Section 12 or is required to file reports pursuant to Section 15(d) of the Exchange Act; (b) has been subject to the requirements of Section 12 or 15(d), and has filed all applicable reports, for 36 calendar months prior to the filing of the registration statement and has timely filed all such reports for the past 12 months; (c) has not defaulted on payments on preferred stock, indebtedness for borrowed money or long-term leases during the past 36 months; and (d) has consolidated net income of at least $250,000 for three of the last four fiscal years, including the most recent fiscal year.

The Commission is considering proposing amendments to Form S–16 which, if adopted, would allow the use of the short form, on an experimental basis, for registration of securities to be offered by certain types of issuers directly to the public. Inasmuch as a prospectus prepared pursuant to Form S–16 is only required to contain very limited information concerning the identity of the issuer or selling security holders, the description of securities to be offered, and the plan of distribution, the Commission intends to move cautiously in making this form available for primary offerings of new securities.

The Commission specifically invites comment from interested persons on three principal issues which must be resolved in implementing the contemplated revisions to Form S–16. First, the Commission is of the view that parameters must be set to identify a category of issuers eligible to use the brief form for primary offerings. In addition to the existing standards set forth in Form S–7, the Commission is also of the view that the category should be limited to those issuers whose reporting history and assets might justify the use of the abbreviated prospectus in purchases of their securities. Among the types of criteria considered by the Commission in this respect are the property or assets criteria used in designating companies required to report certain replacement cost data,[3] and companies required to report selected quarterly financial data in notes to their annual financial statements.[4] The Commission specifically invites comments on whether these or any other similar specified standards would be appropriate to delimit the availability of Form S–16 for primary financings by issuers meeting the tests in the rule as to the use of Form S–7.

The second area on which the Commission invites comment involves the kinds of limits which should be placed on the type or amount of securities which can be registered on Form S–16 for a primary public offering. It is the view of the Commission that, at least initially, securities offered directly through the Form S–16 prospectus should be of a class which for a minimum period of time has already been registered and listed on a national securities exchange or quoted by a specified number of market makers on the automated quotation system of a national securities association. In such instances, information already would be publicly available about the issuer and the securities and some type of market already would have been established. These circumstances would be important since the offering price of the new securities generally would be established by reference to the market price and the market price, in turn, would be established by reasonably well-informed investors in an open market.

In this regard, possible limits on the amount of such offerings may be important in relation to the trading of the outstanding securities of the class.

Finally, the Commission invites comment on the need for and possible content of additional disclosure items in a Form S–16 which would relate to direct offerings. For example, the new offering prospectus might be required to include information on the market price of the securities or the manner in which the offering price will be determined, a use of proceeds section and certain pro forma financial information. The Commission believes this type of information would be important in assuring that the direct offering prospectus meets the requirements of section 10(a) of the Securities Act.

All interested persons are invited to submit their written views and comments on the foregoing areas and on any other issues which might affect the use of Form S–16 for direct offerings. These comments should be sent, in triplicate, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before February 18, 1977. Such communications should refer to File No. S7–666 and will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 20, 1976.

[FR Doc.76–38056 Filed 12–27–76;8:45 am]

[3] Rule 3–17 (17 CFR 210.3–17) under Regulation S–X (17 CFR Part 210) requires footnote disclosure of certain financial data regarding current replacement cost by registrants who have inventories and gross property, plant and equipment which aggregate more than $100 million and which comprise more than 10 percent of total assets. Accounting Series Release No. 190 (March 23, 1976) (41 FR 13596).

[4] Pursuant to Rule 3–16 (17 CFR 210.3–16) under Regulation S–X, one of the conditions which might trigger this requirement is total assets at the last fiscal year end of $200,000,000 or more. Accounting Series Release No. 177 (September 10, 1975) (40 FR 46107).

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. RM77–1]

JUST AND REASONABLE RATE OF RETURN ON EQUITY FOR NATURAL GAS PIPELINE COMPANIES AND PUBLIC UTILITIES

Permitting Parties to Respond and Approving Withdrawal

DECEMBER 21, 1976.

On October 15, 1976, the Commission issued a notice of proposed rulemaking in the captioned docket (published October 22, 1976, 41 FR 46618), stating that interested persons could become parties to this proceeding by filing on or before November 3, 1976, a notice of intention to respond. On December 1, 2, and 3, 1976, Oglethorpe Electric Membership Corporation and North Carolina Electric Membership Corporation, the Montana Power Company and Delmarva Power & Light Company, respectively, filed late notices of intention to respond. On December 8, 1976, Robert R. Nathan Associates, Inc., requested that their notice of intention to respond be withdrawn.

Upon consideration, notice is hereby given that Oglethorpe Electric Membership Corporation and North Carolina Electric Membership Corporation, the Montana Power Company and Delmarva Power & Light Company are permitted to become parties to this proceeding and that Robert R. Nathan Associates, Inc., will be removed from the service list in this docket.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37978 Filed 12–27–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 8]

[Docket No. 76N–0366]

PROVISIONALLY LISTED COLOR ADDITIVES

Proposed Postponement of Closing Dates; Correction

In FR Doc. 76–27825 appearing at page 41860 in the FEDERAL REGISTER of Thursday, September 23, 1976, the following corrections are made:

1. In § 8.501 *Provisional lists of color additives,* the closing date for D&C Orange No. 11 listed among the color additives in paragraph (b) on page 41865 is changed to read "December 31, 1980."

2. In §8.505, paragraphs (c)(1) and (d)(1) on pages 41865 and 41866, are changed to read as follows:

§ 8.505 Conditions of provisional listing.

* * * * *

(c) The closing date for the following 14 color additives is postponed until September 30, 1977, while chemistry data and analytical methods to establish specifications for them are developed and evaluated and subject to compliance with the requirements of this paragraph: FD&C Yellow No. 6, D&C Yellow No. 10, D&C Red No. 6, D&C Red No. 7, D&C Red No. 27, D&C Red No. 28, D&C Red No. 30, D&C Orange No. 4, D&C Orange No. 5, D&C Blue No. 6, Ext. D&C Yellow No. 1, Ext. D&C Green No. 1, graphite, and logwood.

(1) Each of the petitioners for the 14 color additives listed in paragraph (c) of this section shall agree in writing by (30 days after effective date of final regulation) to undertake to develop the necessary chemistry data and analytical methods for the color additives.

* * * * *

(d) The closing date for the following 32 color additives is postponed until December 31, 1980, while chronic toxicity feeding studies and in the case of caramel, a 2-year mouse skin painting study, are conducted and evaluated, and subject to compliance with the requirements of this paragraph: FD&C Yellow No. 5, FD&C Yellow No. 6, D&C Yellow No. 10, FD&C Red No. 3, D&C Red No. 6, D&C Red No. 7, D&C Red No. 8, D&C Red No. 9, D&C Red No. 10, D&C Red No. 11, D&C Red No. 12, D&C Red No. 13, D&C Red No. 19,, D&C Red No. 21, D&C Red No. 22, D&C Red No. 27, D&C Red No. 28, D&C Red No. 30, D&C Red No. 33, D&C Red No. 36, D&C Red No. 37, FD&C Green No. 3, D&C Green No. 5, D&C Green No. 6, FD&C Blue No. 1, FD&C

Blue No. 2, D&C Blue No. 6, D&C Orange No. 5, D&C Orange No. 10, D&C Orange No. 11, D&C Orange No. 17, and caramel.

(1) Each of the petitioners for the 32 color additives listed in paragraph (d) of this section shall agree in writing by (30 days after effective date of final regulation) to undertake the required studies on the color additives.

* * * * *

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-37502 Filed 12-27-76;8:45 am]

[21 CFR Part 18]

[Docket No. 76N-0175]

MILK

Standards of Identity for Lowfat and Skim Milk; Use of Stabilizers and Emulsifiers; Correction

In FR Doc. 76-31203 appearing at page 46873 in the FEDERAL REGISTER of Tuesday, October 26, 1976, the following corrections are made:

1. On page 46873 in the right column, number (2) beginning on the fourth line is changed to read "provide for use of the phrase 'with added thickeners' in the name of the food when these ingredients are used to increase viscosity; and";

2. On page 46874 in the right column, § 18.20(e) (1) (v) is changed to read "The phrase 'with added thickeners' when stabilizers are added to increase the viscosity of the food with or without the aid of emulsifiers."

Dated: December 15, 1976.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.76-37499 Filed 12-27-76;8:45 am]

DEPARTMENT OF STATE

Office of the Secretary

[22 CFR Parts 121, 123, 124]

[Docket No. SD-126]

INTERNATIONAL TRAFFIC IN ARMS

Significant Combat Equipment; Proposed Redefinition

Notice is hereby given that the Secretary of State proposes to amend the International Traffic in Arms Regulations (ITAR), 22 CFR Subchapter M (Parts 121, 123, 124) to redefine the term "significant combat equipment" as used therein. In the current ITAR the term is defined by reference to certain specified categories of the Munitions List, and this definition is set forth in footnotes to two sections (§§ 123.10, 124.10) of the ITAR. The Secretary's authority to make the proposed amendments derives from a delegation in Executive Order 10973 (25 FR 10469) of the President's authority under section 38 of the Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778).

Section 47 of the Arms Export Control Act (22 U.S.C. 2794) defines "major defense equipment" by reference to significant combat equipment on the United States Munitions List. The Act's legislative history expresses the understanding that the Munitions List description of significant combat equipment would be expanded to include military electronic equipment. The proposed revision of Category XI of the List (Military and Space Electronics) is for the purpose of defining such equipment for designation as significant combat equipment. It was also thought advisable, in view of the greater importance accorded the term by the Arms Export Control Act amendments, to place the definition of significant combat equipment in the body of the regulations rather than leaving it as a footnote to other sections.

The proposed amendments revise Category XI of the Munitions List to include electronic equipment (not in Category XII of the List) specifically designed, modified or configured for military application (as well as that expressly assigned a military designation). The proposed amendments also expand (in (a)(1) and (2)) the illustrative list of such equipment. They add a new section to the ITAR entitled "Significant Combat Equipment", which specifies the Categories of the List (to include the new XI(a)(1), (b), and (c)) that are within the term. Finally, the proposed amendments eliminate the existing footnote definitions of significant combat equipment.

The text of the proposed amendments is printed below. Interested persons are invited to submit written comments, suggestions or data to the Office of Munitions Control, Bureau of Politico-Military Affairs, Department of State, Washington, D.C. 20520. Comments received on or before January 31, 1977, will be considered before action is taken on adoption of the proposed amendments. Copies of all written comments received will be available for inspection in the public reading room of the Department of State, 2201 C Street, NW, Washington, D.C. 20520.

Interested persons will also be given the opportunity to offer comments on the proposed regulations orally. A public meeting for this purpose will be held at 10 a.m., February 4, 1977, in the Office of the Director, Office of Munitions Control, Room 800, State Department Annex 6, 1701 N. Fort Meyer Drive, Arlington, Virginia 20520. Those wishing to offer oral comments at this meeting must submit to the Office of Munitions Control, Bureau of Politico-Military Affairs, Department of State, Washington, D.C. 20520, written notice of their intention to do so no later than January 31, 1977. Such notice must state the name of the person wishing to speak at the public meeting and the organization, if any, that the person represents. Interested members of the public are invited to attend the public meeting.

In consideration of the foregoing it is proposed to amend 22 CFR Subchapter M (Parts 121–124) as follows:

PART 121—ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

1. By amending the table of contents for Part 121 to redesignate the present §§ 121.03–121.21 as §§ 121.04–121.22.

2. By revising § 121.01, Category XI, to read as follows:

§ 121.01 The U.S. munitions list.

* * * * *

CATEGORY XI—MILITARY AND SPACE ELECTRONICS

(a) Electronic equipment not included in Category XII of the Munitions List assigned a military designation or specifically designed, modified or configured for military application, including but not limited to the following items:

(1) Underwater sound equipment including long towed arrays, electronic beam formed sonar, target classification equipment, and spectrographic displays; search, acquisition, tracking, moving target indication and imaging radar systems; active and passive countermeasures, counter-countermeasures; electronic fuses; identification systems; command, control and communications systems, and regardless of designation, any experimental or developmental electronic equipment specifically designed or modified for military application, or for use with a military system, and

(2) Simple fathometers; underwater telephones; electro-mechanical beam former sonars and elementary sonobuoys; weather, navigation and air traffic control radar systems navigation, guidance, object-locating methods and means; displays; and telemetering equipment.

(b) Electronic equipment specifically designed or modified for spacecraft and spaceflight.

(c) Electronic systems or equipment designed, configured, used or intended for use in search, reconnaissance, collection, monitoring, direction-finding, display, analysis and production of information from the electromagnetic spectrum for intelligence or security purposes.

(d) Components, parts, accessories, attachments, and associated equipment specifically designed for use or currently used with the equipment in paragraphs (a) through (c) of this category, except such items as are in normal commercial use.

* * * * *

3. By redesignating §§ 121.03–121.21 as §§ 121.04–121.22, as stated in Item 1, and adding a new § 121.03, to read as follows:

§ 121.03 Significant combat equipment.

Significant combat equipment includes the articles (not including technical data) enumerated in Categories I (a), (b), and (c) (in quantity); II (a) and (b); III(a) (excluding ammunitions for firearms in Category I); IV (a), (b), (d), and (e); V(b) (in quantity); VI(a) (limited to combatant vessels as defined in § 121.12(a)) (b) (inclusive only of turrets and gun mounts, missile systems, and special weapons systems) and (e); VII (a), (b), (c), and (f); VIII (a), (b), (c), GEMS as defined in (k), and inertial systems as defined in (l); XI (a)(1), and (b) and (c); XII(a); XIV (a), (b), (c), and (d); XVI; XVII; and XX (a) and (b).

PART 123—LICENSES FOR UNCLASSIFIED ARMS, AMMUNITIONS AND IMPLEMENTS OF WAR

§ 123.10 [Amended]

4. By deleting footnote 3 to § 123.10 (d).

PART 124—MANUFACTURING LICENSE AND TECHNICAL ASSISTANCE AGREEMENTS

§ 124.10 [Amended]

5. By deleting footnote 1 to § 124.10 (m) (2).

(Sec. 38, as amended, 90 Stat. 744, 22 U.S.C. 2778; secs. 101 and 105, E.O. 10973, 26 FR 10469; sec. 6, Department Delegation of Authority No. 104, 26 FR 10608, as amended.)

AMOS A. JORDAN,
Acting Under Secretary for Security Assistance.

DECEMBER 17, 1976.

[FR Doc.76-37962 Filed 12-27-76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Fringe Benefits: Withdrawal of Discussion Draft of Proposed Regulations

• The purpose of this document is to withdraw the discussion draft of proposed amended regulations prescribing standards for determining whether incidental facilities, goods and services benefiting employees (fringe benefits) result in compensation includible in gross income. This discussion draft appeared in the FEDERAL REGISTER on September 5, 1975 (40 FR 41118).•

As noted in the summary and explanation released at the same time, the proposed regulations were issued as a discussion draft, rather than in proposed form, "because of the nature of the subject and the desirability of obtaining the broadest possible public comment." During the past 15 months, the discussion draft has been the subject of extensive comment. These comments have demonstrated the problems associated with establishing rules of general applicability with respect to fringe benefits.

In light of these comments, it has been concluded that the discussion draft should be withdrawn. The question of whether fringe benefits result in taxable compensation to employees should continue to depend, as it presently does, on the facts and circumstances that exist in individual situations.

The discussion draft of proposed regulations on fringe benefits published in the FEDERAL REGISTER (40 FR 41118) is hereby withdrawn.

CHARLES M. WALKER,
Assistant Secretary for Tax Policy.

DECEMBER 20, 1976.

[FR Doc.76-37947 Filed 12-22-76;9:28 am]

[26 CFR Part 1]

ASSIGNMENT OR ALIENATION OF BENEFITS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury of his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably eight copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by January 27, 1977. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by January 27, 1977. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

PREAMBLE

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) in order to conform such regulations to section 401(a)(13) of the Internal Revenue Code of 1954, as added by section 1021(c) of the Employee Retirement Income Security Act of 1974 (Pub. L. No. 93-406, 88 Stat. 937). Section 206(d) of such Act contains provisions substantially similar to the provisions of section 1021(c).

Under section 401(a)(13) of the Code, a trust which forms part of a plan will not qualify under section 401(a) unless the plan provides that benefits may not be assigned or alienated. However, a plan may provide that certain benefits in pay status may be subject to a voluntary and revocable assignment (not to exceed 10 percent of any benefit payment) by a participant provided such assignment or alienation is not for the purpose of defraying plan administration costs. Also, vested benefits may be used as collateral for certain loans to a participant or beneficiary.

Under § 1.401(a)-13(a)(1) of the proposed regulations, a plan must provide that benefits under the plan are not subject to assignment, alienation, attachment, garnishment, levy (other than a Federal tax levy made pursuant to section 6331 of the Code), execution or other legal or equitable process. Section 1.401(a)-13(a)(2)(i) of the proposed regulations defines the terms "assignment" and "alienation" for purposes of section 401(a)(13) to include any direct or indirect arrangement whereby a third person acquires a right or interest in plan benefits that is legally enforceable against the plan, and any arrangement whereby amounts owed to the employer by a participant are offset against benefit payments due the participant. Section 1.401(a)-13(a)(2)(ii) of the proposed regulations describes certain arrangements that are not considered to be "assignments" or "alienations" for purposes of section 401(a)(13).

Section 1.401(a)-13(a)(3) of the proposed regulations implements the statutory provision that, within certain limitations, a plan may provide for the voluntary and revocable assignment or alienation of plan benefits by participants in pay status.

Under § 1.401(a)-13(b)(1) of the proposed regulations, vested benefits may be used as collateral for loans from a plan to a participant or beneficiary provided such a loan is exempt from the excise tax on prohibited transactions imposed by section 4975 by reason of section 4975(d)(1), or would be exempt from such tax under 4975(d)(1) if the participant were a "disqualified person". However, § 1.401(a)-13(b)(2) of the proposed regulations specifically limits this exception to loans from the plan and states that a plan may not provide for the assignment or alienation of nonforfeitable accrued benefits as security for a loan from a party other than the plan.

Under § 1.401(a)-13(c)(1) of the proposed regulations, section 401(a)(13) becomes applicable on January 1, 1976, and will not apply to any assignment or alienation that is irrevocable on December 31, 1975, or any attachment, garnishment or other legal or equitable process that is made on or before such date. Section 1.401(a)-13(c)(2) contains a special rule relating to arrangements in effect 15 days after the publication of the proposed regulations whereby amounts owed to the employer by a participant may be offset against benefit payments due the employee.

The proposed regulations reflect Technical Information Release No. 1422, dated December 3, 1975, relating to pre-1976 assignments of nonforfeitable accrued benefits made as security for loans to a participant or beneficiary from a

party other than the plan, and Technical Information Release No. 1430, dated January 2, 1976, relating to renewals or extensions of such loans.

Proposed amendments to the regulations. In order to precribe regulations under section 401(a)(13) of the Internal Revenue Code of 1954, as added by section 1021(c) of the Employee Retirement Income Security Act of 1974 (Pub. L. No. 93-406, 88 Stat. 937), the Income Tax Regulations (26 CFR Part 1) are amended by adding the following new section immediately before § 1.401(a)-14:

§ 1.401(a)-13 Assignment or alienation of benefits.

(a) *No assignment or alienation*—(1) *General rule.* Under section 401(a)(13), a trust shall not constitute a qualified trust unless the plan of which such trust is a part provides that benefits provided under the plan may not be anticipated, assigned (either at law or in equity), alienated or subject to attachment, garnishment, levy, execution or other legal or equitable process. For purposes of this section, the term "levy" does not include a Federal tax levy made pursuant to section 6331.

(2) *Definition of terms*—(i) *In general.* For purposes of this section, the terms "assignment" and "alienation" include—

(A) Any arrangement whereby amounts owed to the employer by a participant are offset against payments due the participant under the plan, and

(B) Any direct or indirect arrangement (other than an arrangement described in (A) of this subdivision), whether revocable or irrevocable, whereby a third party acquires from a participant or beneficiary a right or interest enforceable against the plan in, or to, all or any part of a plan benefit payment which is, or may become, payable to the participant or beneficiary. Thus, an arrangement whereby benefit payments are paid to a participant's savings or checking account in a financial institution is not considered an "assignment" or "alienation" for purposes of this section.

(ii) *Arrangements not considered assignments or alienations.* The terms "assignment" or "alienation" do not include—

(A) Any arrangement for the recovery of amounts described in section 4045(b) of the Employee Retirement Income Security Act of 1974, 88 Stat. 1027 (relating to the recapture of certain payments),

(B) Any arrangement for the withholding of Federal, State or local tax from plan benefit payments, or

(C) Any arrangement for the recovery by the plan of overpayments of benefits previously made to a participant.

(iii) *Special rules.* For purposes of subdivision (i)(B) of this subparagraph, in the case of any arrangement whereby a participant or beneficiary directs the plan to pay all, or any portion, of a plan benefit payment to a third party, such arrangement will not constitute an "assignment" or "alienation" with respect to any payments made by the plan to the third party pursuant to such arrangement if—

(A) The arrangement is revocable at any time by the participant or beneficiary and such third party acknowledges in writing to the participant or beneficiary and to the plan no later than the later of—

(1) [60 days after the date a Treasury decision is published in the Federal Register adopting final regulations under section 401(a)(13)], or

(2) 60 days after the arrangement is entered into,

that it has no enforceable right in, or to, any plan benefit payment or portion thereof (except to the extent of payments actually received pursuant to the terms of the arrangement), or

(B) The participant or beneficiary revokes the arrangement on or before [60 days after the date a Treasury decision is published in the Federal Register adopting final regulations under section 401(a)(13)].

(3) *Certain voluntary and revocable assignments or alienations.* Notwithstanding subparagraph (1) of this paragraph, a plan may provide that once a participant begins receiving benefits under the plan, such participant may assign or alienate the right to future payments, provided that such a provision is limited to assignments or alienations which—

(i) Are voluntary and revocable,

(ii) With respect to a particular benefit payment, do not in the aggregate exceed 10 percent of such payment, and

(iii) Are neither for the purpose, nor have the effect, of defraying plan administration costs.

For purposes of this subparagraph, an attachment, garnishment, levy, execution or other legal or equitable process is not considered a voluntary assignment or alienation.

(b) *Benefits assigned or alienated as security for loans*—(1) *Loans from the plan.* Notwithstanding paragraph (a)(1) of this section, a plan may provide for loans from the plan to a participant or a beneficiary to be secured (by whatever means) by such participant's accrued nonforfeitable benefit, provided that such a provision is limited to loans from the plan and—

(i) If made to a participant or beneficiary who is a disqualified person (within the meaning of section 4975(e)(2)) with respect to such plan, such loan is exempt from the tax imposed by section 4975 (relating to tax imposed on prohibited transactions) by reason of section 4975(d)(1), or

(ii) If made to a participant or beneficiary who is not a disqualified person (within the meaning of section 4975(e)(2)) with respect to such plan, such loan would be exempt from the tax imposed by section 4975 (relating to tax imposed on prohibited transactions) by reason of section 4975(d)(1) if made to a person described in section 4975(e)(2).

(2) *Loans from a party other than the plan.* Pursuant to paragraph (a)(1) of this section, a plan may not provide for the assignment or alienation (or other use) of benefits accrued or to be accrued under the plan as security for a loan from a party other than the plan. For purposes of the preceding sentence, it is immaterial whether the benefits accrued or to be accrued under the plan are nonforfeitable within the meaning of section 411 and the regulations thereunder.

(c) *Effective date*—(1) *In general.* Section 401(a)(13) and this section become applicable on January 1, 1976, and the plan provision required by such sections must be effective as of January 1, 1976. Regardless of when such provision is adopted, it shall not affect—

(i) Attachments, garnishments, levies or other legal or equitable process permitted under the plan that are made on or before December 31, 1975.

(ii) Assignments permitted under the plan that are irrevocable on December 31, 1975, including assignments made on or before such date as security for loans to a participant or beneficiary from a party other than the plan, and

(iii) Renewals or extensions of loans described in subdivision (ii) of this subparagraph, provided—

(A) The principal amount of the obligation outstanding on December 31, 1975 (or, if less, the principal amount outstanding on the date of renewal or extension) is not increased,

(B) The loan, as renewed or extended, does not bear a rate of interest in excess of the rate prevailing for similar loans at the time of the renewal or extension, and

(C) With respect to loans that are renewed or extended to bear a variable interest rate, the formula for determining the applicable rate is consistent with the formula or formulae prevailing for similar loans at the time of the renewal or extension.

For purposes of the preceding sentence, a loan from a party other than the plan made after December 31, 1975, will be treated as a new loan even if the lender's security interest for the loan arises from an assignment of the participant's accrued nonforfeitable benefit made before such date.

(2) *Special rule.* The provisions of paragraph (a)(2)(i)(A) of this section (relating to arrangements whereby amounts owed to the employer may be offset against benefit payments) shall not apply to any such arrangement in effect on January 12, 1977, provided—

(i) The principal amount of the obligation subject to the arrangement is not increased at any time after such date;

(ii) No payment, or any part thereof, made after such date is applied to an obligation other than the obligation subject to the arrangement on such date;

(iii) The rate of interest in effect on such date under the arrangement is not increased any time after such date; and

(iv) In the case of such arrangements that provide for substantially equal periodic payments, the amount of each

such payment is not increased (except with the permission of the participant) at any time after such date.

[FR Doc.76-38082 Filed 12-27-76;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-104]

AMORPHOUS SILICA

Advance Notice of Proposed Rulemaking

The Occupational Safety and Health Administration, U.S. Department of Labor is studying the general health implications, safe exposure levels, and methods of sampling and measurement for amorphous silica. It is considering preparing a new proposed standard which will be complete and will better protect employees exposed to amorphous silica in the diatomaceous earth processing industry, refractory brick industry, wine and liquor production industry, and other industries which use amorphous silica or diatomaceous earth for cleaning, polishing, filtering, calcining or other processes. There is now no complete standard for amorphous silica but an exposure limit is set by Table Z-3 of 29 CFR 1910.1000 (formerly Table G-3 of 29 CFR 1910.93).

This advance notice of proposed rulemaking is being published to permit interested persons to submit information useful in the preparation of a proposed standard and suggested requirements to be included within it. Interested persons will also be entitled to participate in the rulemaking process after the publication of any proposed standard on amorphous silica through written comments and participation at a hearing if requested.

Accordingly, interested persons are invited to submit by March 1, 1977, written data, views and comments concerning a standard on amorphous silica for employees to the Docket Officer, Docket No. H-104, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3620, 200 Constitution Ave., NW, Washington, D.C. 20210 (Telephone (202) 523-8076). Comments are specifically requested concerning:

(1) Health effects of amorphous silica;

(2) Data useful for setting a safe exposure level and also data of current exposure levels;

(3) The use of respirable mass of dust as a measure of risk;

(4) Workplaces, processes, occupations or jobs where exposures to amorphous silica can occur;

(5) Appropriate engineering controls, work practices and personal protective equipment to reduce levels of exposure;

(6) Appropriate provisions for employee exposure monitoring, methods of compliance, signs and labels, medical surveillance, training and recordkeeping;

(7) The application of recordkeeping and similar requirements to small businesses and those with highly transient work forces;

(8) The feasibility of complying with a complete amorphous silica standard at the current or a reduced level of exposure;

(9) The environmental, economic and inflationary impact of a complete amorphous silica standard at the current or a reduced level of exposure; and

(10) Any other information pertinent in preparing an amorphous silica standard.

(Secs. 4(b), 6(b) and 8 of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653(b), 655(b), 657) and Secretary of Labor's Order No. 8-76 (41 FR 25059, June 22, 1976).)

Signed at Washington, D.C. this 17th day of December 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37870 Filed 8-27-76;8:45 am]

[29 CFR Part 1952]

ALASKA

Proposed Supplement to Approved Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the review of changes and progress in State plans which have been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing this decision. On September 28, 1976, the State of Alaska submitted to the Seattle Regional Office of the Occupational Safety and Health Administration a supplement to the plan involving a developmental change. Following Regional review, the supplement was forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for his determination as to whether it should be approved. The supplement is described below.

2. *Description of the supplement.* Alaska Compliance Manual. The State has submitted a Compliance Operations Manual which is modeled on the Occupational Safety and Health Field Operations Manual.

3. *Location of the plan and its supplement for inspection and copying.* A copy of the plan and the supplement may be inspected and copied during normal business hours at the following locations: Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, NW, Washington, D.C. 20210; Office of Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Washington 98174; and the Alaska Department of Labor, Juneau, Alaska 99801.

4. *Public participation.* Interested persons are hereby given until January 27, 1977 in which to submit written data, views, and arguments concerning whether the supplement should be approved. Such submissions are to be addressed to the Acting Director for Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, NW, Washington, D.C. 20210, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Acting Director for Federal Compliance and State Programs. If in the opinion of the Assistant Secretary, substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subject and issue involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplement, make appropriate amendments to Subpart R of Part 1952 and initiate further proceedings, if necessary.

Signed at Washington, D.C. this 17th day of December, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37876 Filed 12-27-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 903]

AIR FORCE ACADEMY PREPARATORY SCHOOL

Miscellaneous Amendments

The Department of the Air Force proposes to revise Subchapter K of Chapter VII of Title 32 CFR, Part 903, which tells how young men and women may apply for the Air Force Academy Preparatory School, when the school will be conducted, how the students are selected, and how they are reassigned.

This revision includes provision for the admission of women to the Air Force Academy Preparatory School; changes title of Associate Director of Admissions to Director of Cadet Admissions. Deletes use of DD Form 1852; deletes use of the Airman Classification Test (ACT) and Airman Qualifying Examination (AQE); deletes use of the Air Force Officer Qualifying Test (AFOQT); deletes the required one-year wait for re-examination; and adds the Privacy Act statement.

Interested persons are invited to comment on the proposed rulemaking on or before January 31, 1976. Written data, views, arguments concerning the pro-

posal must be submitted to Headquarters U.S. Air Force (DPPA) Lt Col Rhoten, Washington, D.C. 20330. Comments and suggestions submitted in writing will be available for public inspection and copying at the above address.

The revised Part 903, Air Force Academy Preparatory School, will read as follows:

Sec.
903.1 Purpose.
903.2 Terms explained.
903.3 School location and schedule.
903.4 How vacancies are allocated.
903.5 Requirements for enrollment.
903.6 When to apply.
903.7 How to submit a request for enrollment.
903.8 How the organizational commander processes a request for enrollment.
903.9 How students are selected.
903.10 Selection notification.
903.11 Separations from the school.
903.12 Reassignment of Air Force applicants and nominees eliminated or not selected.
903.13 Reassignment of Air Force Regular airmen and nominees selected as cadets.
903.14 Sample letter.
903.15 Statement.

AUTHORITY: 10 U.S.C. 8012, except as otherwise noted.

§ 903.1 Purpose.

This Part tells how young men and women may apply for the Air Force Academy Preparatory School, when the school will be conducted, how the students are selected, and how they are reassigned. Preparatory School enrollment and successful completion of the course does not guarantee admission to the Academy. This Part is affected by the Privacy Act Statement, either incorporated in the body of the document, or in a separate statement accompanying each document.

§ 903.2 Terms explained.

(a) *Regular Military Applicant.* An enlisted member of the Regular Air Force who applies for nomination to the Air Force Academy under the Regular competitive nominating category.

(b) *Reserve Military Applicant.* An enlisted member of the Reserve of the Air Force (including Air National Guard of the United States—ANGUS) who applies for nomination to the Air Force Academy under the Reserve competitive nominating category.

(c) *Military Nominee.* A person on extended active duty with the Armed Forces of the United States other than with the U.S. Air Force, who receives a nomination to the Air Force Academy.

(d) *Organization Commander.* The Commander who administers and operates the organization to which the applicant or nominee is assigned.

§ 903.3 School location and schedule.

The Air Force Preparatory School is located at the United States Air Force Academy near Colorado Springs, Colorado. Classes are conducted annually from early August to early May. A limited number of Regular Air Force airmen may be enrolled in January of each year.

§ 903.4 How vacancies are allocated.

(a) Vacancies are allocated annually to Regular and Reserve members of the Air Force and to military nominees (§ 903.2(c)).

(b) Headquarters Civil Air Patrol—U.S.A.F. may nominate annually three primary and three alternate Civil Air Patrol (CAP) Mitchell Award winners to attend the Air Force Academy Preparatory School.

§ 903.5 Requirements for enrollment.

Applicants and nominees must meet the eligibility requirements specified for the Air Force Academy in Part 901 of this Subchapter. (These requirements are also in the Air Force Academy catalog, obtainable from the Director of Cadet Admissions, USAFA/RRS, USAF Academy CO 80840.) In addition, applicants must:

(a) Be on extended active duty. Air Force Reserve or ANGUS military applicants may apply for the preparatory school course while not on extended active duty. If selected they will be called to extended active duty solely for the purpose of attending the Prep School. ANGUS applicants will be transferred to the Air Force Reserve before being called to extended active duty.

(b) Meet the medical requirements for appointment to the Air Force Academy.

(c) Agree, if a regular military applicant, to extend his or her enlistment before enrollment if the obligated tour of duty or enlistment contract expires before 1 July of the following year.

(d) Attain a satisfactory score on the Air Force Academy Selection Test (AST).

(1) The Director of Cadet Admissions authorizes the test after all records have been evaluated, including school transcripts and the AF Form 1786, Application for Appointment to the USAF Academy Under Quota Allotted to Enlisted Members of the Regular and Reserve Components of the Air Force. Exception: USAFA/RRS may waive this requirement if Scholastic Aptitude Tests (SAT) or American College Testing Program (ACT) tests are available and acceptable.

(2) The base military test control commissioned or noncommissioned officer administers the test.

(e) Have an acceptable academic record as determined by USAFA/RRS.

(f) Individuals who have previously attended a service academy preparatory school normally are not eligible to apply under this Part.

(g) Members of the Army, Navy, and Marine Corps are not eligible under the Regular or Reserve competitive categories. Such applicants must be on active duty and have received nominations from Members of Congress or other authorized nominating sources prior to applying for the Air Force Academy Preparatory School.

§ 903.6 When to apply.

(a) Air Force Regular and Air Force Reserve military applicants may apply for preparatory school at any time. However, completed applications and all other required records for consideration for the class that enters in July must be received by 31 May at USAFA/RRS, USAF Academy, CO 80840.

(b) Army, Navy, and Marine Corps members eligible for the Academy under a Congressional nomination only and who require such nomination to establish eligibility for the school must meet all requirements by 30 June.

§ 903.7 How to submit a request for enrollment.

(a) Regular or Reserve military applicants submit AF Form 1786 through their organization commander, to USAFA/RRS, USAF Academy, CO 80840, requesting enrollment and, on the same form, requesting candidacy under the Regular or Reserve competitive nominating category.

(b) A military nominee (Army, Navy, Marine) must request preparatory school enrollment by submitting a letter through his or her organization commander to USAFA/RRS (see § 903.14).

§ 903.8 How the organization commander processes a request for enrollment.

The Commander:

(a) Determines eligibility according to § 903.5, except that the Air Force Academy determines whether or not the applicant or nominee meets the medical requirements and has an acceptable academic record and satisfactory test scores as outlined in § 903.5 (b) and (d).

(1) The commander returns the applications of ineligible applicants by indorsement, explaining the reason for ineligibility.

(2) The Director of Cadet Admissions, Air Force Academy, will notify any person who is ineligible because of academic records or test scores. The Department of Defense Medical Examination Review Board will notify applicants who are medically disqualified for admission.

(b) Arranges for testing. The AST will be furnished by the USAF Academy and administered only by the test control officer upon authorization by the Director of Cadet Admission, USAF/RRS. Immediately after the test is completed, the answer sheet will be forwarded to USAFA/RRS for grading.

(c) Insures that the applicant or nominee provides certified transcripts of all of his or her academic records from his or her high school or civilian preparatory school and from any college he or she may have attended.

(1) If transcripts are not available when the application is submitted, the appropriate school official will be requested to forward them to USAFA/RRS, USAF Academy CO 80840. The names and addresses of all schools attended

must appear on the request for enrollment.

(2) Applicants will not be considered for preparatory school enrollment until all academic transcripts are received.

(d) Forward by first indorsement AF Form 1786, or the military nominee's letter of request for admission to the preparatory school to USAFA/RRS; one copy of AF Form 909, Airman Performance Report or AF Form 910, TSgt, SSgt and Sgt Performance Report for applicants in the grade of A1C and above; and transcripts of academic record, if available.

(1) The indorsement must include a complete comprehensive statement concerning the applicant's character, ability, and background, and the following statement: "Statements in this application regarding component, length of service, and date of birth have been verified from official records."

(2) Copy of AF Form 1786 should be retained for file.

§ 903.9 How students are selected.

Selection is made by the Air Force Academy, based on test scores attained, the medical examination, the academic record, the recommendation of the organization commander, and other reports or records indicating the individual's aptitudes and achievements.

§ 903.10 Selection notification.

The Air Force Academy sends the applicant a notice of selection or nonselection, and notifies the appropriate reassignment authority of selection. The notification will specify the reporting date and place and will outline specific information to be included in the reassignment instructions.

(a) Assignment instructions for Air Force personnel are sent to the applicant's organization commander.

(b) Assignment instructions for personnel from the other armed forces are sent to the appropriate organization designated below:

(1) Army: Organization of assignment—which will process the individual under the provisions of AR 600–235.

(2) Navy: Chief of Naval Personnel (Pers B21), Wash DC 20370.

(3) Marine Corps: Commandant of the Marine Corps (Code MMEA), Wash DC 20380.

§ 903.11 Separations from the school.

(a) Persons undergoing preparatory schooling may be relieved from assignment when the Commander, USAFA Preparatory School, USAF Academy CO 80840, determines that one of the following conditions exists:

(1) Failure to maintain academic standards.

(2) Failure to demonstrate adaptability for training and education at the Air Force Academy.

(3) Unsatisfactory conduct.

(4) Retention is not in the best interests of the Government.

(5) Personal request by the student for disenrollment due to lack of desire for an Air Force Academy appointment.

(6) Marriage.

(7) Medical reasons.

(8) Or for any reason outlined in AFR 53–3.

(b) Students released from any service academy preparatory school for any of the above reasons may be disqualified for admission to the Air Force Academy, as determined by the Superintendent, USAF Academy.

§ 903.12 Reassignment of Air Force applicants and nominees eliminated or not selected.

(a) *Regular Air Force Personnel.* When it is determined that an airman should be eliminated from the preparatory school, for one of the conditions in paragraph 10a, or that an airman who has completed the course will not be selected for a cadet appointment, the Commander, USAFA Preparatory School, reports such personnel to AFMPC/DPMRAA, Randolph AFB TX 78148 for reassignment. The following information must be included in the report:

(1) Grade, name, and SSAN.

(2) CAFSC, PAFSC, and any additional AFSCs.

(3) Former unit, base, and command of assignment.

(4) DOS.

(5) ODSD/STRD and last area of oversea assignment.

(6) Oversea volunteer status.

(7) Assignment preferences as reflected on current AF Form 392, Airman Assignment Preference Statement, (both CONUS and overseas). Normally personnel will be reassigned to their original CONUS command.

(8) Assignment deferment status.

(9) Authority for reporting airman for reassignment.

(10) Reason for reassignment.

(11) Statement as to whether airman holds nomination for possible appointment to another academy (designate).

(b) *Reserve Air Force Personnel:* (1) If a Reserve airman should be eliminated from the preparatory school for one of the conditions in § 903.11(a), or if a Reserve airman who has completed the course will not be selected for a cadet appointment, he or she will be released from active duty by USAFA and assigned to ARPC (ORS), 3800 York St., Denver CO 80205.

(2) All Reserve airmen who complete the preparatory school program and receive an appointment to the USAF Academy will be released from active duty immediately before entering the Air Force Academy Wing as Cadets.

(3) The authority for release from active duty of Reserve airmen released under (1) above is: Part 901 of this Subchapter and AFM 39–10. Specific attention is invited to 10 U.S.C. 516.

(4) The authority for release from active duty of Reserve airmen accepting appointment as a Cadet, USAFA, is

(i) Ltr DAF, 8 July 1957, "Members of the Armed Forces Appointed to Service Academy;"

(ii) 10 U.S.C. 516, 8201, 8203, and 8214 as it relates to the Air Force;

(iii) and AFM 39–10.

(5) Individuals will not be issued DD Form 214, Report of Separation from Active Duty. Class year and date of entry to the Academy will be indicated. Records will be retained by Cadet Wing Personnel (CWP) until the airman is commissioned or disenrolled.

(c) *Military Nominees.* Nominees from armed forces other than the Air Force who are eliminated from preparatory school, or who complete the academic year but fail to receive an appointment to the Air Force Academy, will be reported to the holding unit designated below:

(1) From the Army: to the organization specified in AR 600–235.

(2) From the Navy: to the officer-in-charge, Naval Administrative Unit, CIN CONAD Ent AFB CO 80912.

(3) From the Marine Corps: to MARTU, MARTC, Denver CO 80240.

§ 903.13 Reassignment of Air Force Regular airmen and nominees selected as cadets.

(a) Air Force Regular Airmen selected for admission to one of the service academies will be released from active duty by the Air Force Academy and transferred to the appropriate academy. Authority for release from active duty will be:

(1) Ltr DAF, 8 July 1957, "Members of the Armed Forces Appointed to Service Academy;"

(2) 10 U.S.C. 516, 8201, 8205, and 8214 as it relates to the Air Force;

(3) AFM 39–10

(b) Individuals will not be issued DD Form 214, Report of Separation from Active Duty. Class year and date of entry to the Academy will be indicated. Records on those airmen attending the Air Force Academy will be retained by Cadet Wing Personnel (CWP) until the airman is commissioned or disenrolled. Records on those airmen entering one of the other academies will be forwarded to AFMPC/DPMDRR–1, Randolph AFB, Tex. 78148.

(c) Regular airmen accepting an appointment to one of the service academies will sign the statement in attachment 2. Copy of statement will be filed in personnel records.

(d) Students selected as Air Force Academy Cadets from other than the Air Force will be reported by the Air Force Academy to the appropriate service academy.

§ 903.14 Sample letter.

(To be used only by military nominee—see § 903.2(c) and § 903.7(b)) (Army, Navy, and Marine Corps only) (Regular and Reserve Air Force applicants must use Air Force Form 1786)

Subject: Application To Attend Air Force Academy Preparatory School.

Thru: Organization Commander (see § 903.2(d)).

To: USAFA/RRS; USAF Academy CO 80840.

1. I hereby apply under the provisions of AFR 53–14/BuPersInst 1530.49/MCO 1530.5 to attend the Air Force Academy Preparatory School for Air Force Academy candidates.

2. (Use appropriate sentence(s) listed below):

a. I have been nominated by (indicate name of Senator/Representative) for appointment to the Air Force Academy.

b. I have applied for candidacy to the Air Force Academy under the following checked competition(s):

Presidential;
Sons or Daughters of Disabled Veterans;
Sons or Daughters of Medal of Honor Recipients.

3. (Use appropriate sentence(s) listed below):

a. My academic transcripts are attached.

b. My academic transcripts are being requested from the appropriate school officials and will be mailed by them to the Director of Cadet Admissions, USAFA/RRS. I last attended the following high school, college, or preparatory school (name of school) (address of school).

4. I was born on (day) (month) (year). My present enlistment expires (day) (month) (year).

Name
Grade—SSAN
Branch of Service
Organization
Location

§ 903.15 Statement.

Upon acceptance as cadet in the _____ academy, effective _____ I understand that in accordance with the provisions of Public Law No. 614, 84th Congress, should my appointment be terminated for reasons other than acceptance of a commission in a regular or reserve component of the armed forces, or for physical disability, I will be reverted to my former enlisted or inducted status in effect immediately prior to acceptance of appointment as cadet in the _____ for the purpose of completing any remaining active and inactive service required under my enlistment contract or my service obligation under the Universal Military Training and Service Act, or both, as approprite. I further understand that any time served as a cadet shall be counted as time served under my enlistment contract or period of obligated service, or both, as appropriate.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-38083 Filed 12-27-76;8:45 am]

Corps of Engineers

[33 CFR Part 207]

NAVIGATION REGULATIONS

St. Marys Falls Canal and Locks, Michigan

Notice is hereby given that pursuant to section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) the regulations set forth in tentative form below are proposed by the Secretary of the Army (acting through the Chief of Engineers) to govern the use, administration and navigation of the St. Marys Falls Canal and Locks, Michigan. We propose to amend the present regulations by revising paragraph (v) and by adding a new paragraph (v)(1) in 33 CFR 207.440 to permit the transit of vessels of a length up to 767 feet through the MacArthur Lock whenever the Poe Lock is out of service for a period exceeding 24 hours.

For a number of years the Department of the Army, acting through the Chief of Engineers, has worked as the lead agency with other Federal agencies, state agencies, industry organizations and others in conducting an Extended Navigation Season Demonstration Program on the Great Lakes. A major element of Corps of Engineers participation has been to provide for lockage through the St. Marys Falls Locks during a period extending beyond the normal navigation season which is from 1 April to mid-December. Due to improved fleet operation techniques, increased structural stability of vessels and favorable weather, it has been possible to sail without interruption throughout the extent of the program.

The Great Lakes fleet has been dedicated to continue operations throughout the winter provided the Government will continue to provide passage through the locks at the St. Marys Falls Canal. Two of the ships involved in the program are 767 feet long and the others are less than 730 feet long.

This fleet normally would be accommodated at the Poe Lock chamber which is presently authorized to transit vessels up to 1,000 feet in length. The Poe Lock must be closed for repairs from 1 March 1977 through 1 April 1977 to assure that it will be in condition for full operation during the spring through fall months. The only other lock in the St. Marys Falls complex capable of handling ships of the necessary draft is the MacArthur Lock whose chamber is 80 feet wide by 870 feet long measured from the upper gate to the lower downstream gate. However, 33 CFR 207.440(v), restricts the maximum size vessel in the MacArthur chamber to 730 feet in length.

Maintenance of a channel through the ice is dependent in large measure on the number of vessels plying the channel and the vessel horsepower. As traffic declines, maintenance becomes progressively more difficult. The number of low horsepower vessels that can move is directly correlated to the number of high horsepower vessels available to lead the traffic. In the Great Lakes dedicated fleet, only the two 767 feet vessels are of sufficient horsepower to lead the traffic, so that it becomes essential to the continuation of the Demonstration Program that special arrangements be made to transit the 767 foot vessels through the MacArthur chamber.

Paragraph (v) of 33 CFR, 207.440 has been amended twice previously to permit 767 feet long vessels to transit MacArthur Lock. Both instances were for the same type of circumstances as stated above. Both amendments contained specific time periods during which vessels longer than 730 feet were allowed to use MacArthur Lock. It is proposed by this amendment to effect the same result for similar events without using specific dates. This amendment would also insure a larger degree of service continuity at the St. Marys Falls Canal and Locks by providing immediate remedies to similar conditions occurring in the future whether during scheduled or emergency repairs to Poe Lock.

Prior to the adoption of the proposed regulations consideration will be given to any comments, suggestions or objections thereto which are submitted in writing to the Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attention: DAEN-CWO-N on or before 27 January 1977.

It is proposed that § 207.440(v) be revised as follows:

§ 207.440 St. Marys Falls Canal and Locks, Michigan; use, administration, and navigation.

* * * * *

(v) The maximum overall dimensions of vessels that will be permitted to transit MacArthur Lock are 730 feet in length and 75 feet in width, except as provided in paragraph (v)(1). Further, any vessel of greater length than 600 feet must be equipped with deck winches adequate to safely control the vessel in the lock under all conditions including that of power failure.

(1) Whenever the Poe Lock is out of service for a period exceeding 24 hours, the District Engineer may allow vessels greater than 730 feet in length, but not exceeding 767 feet in length to navigate the MacArthur Lock. Masters of vessels exceeding 730 feet in length shall be required to adhere to special handling procedures as prescribed by the District Engineer.

* * * * *

Dated: December 16, 1976.

MARVIN W. REES,
Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc.76-38005 Filed 12-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 101]

PROFESSIONAL STANDARDS REVIEW AREAS

Notice of Proposed Rulemaking

Notice is hereby given that the Secretary of Health, Education, and Welfare, proposes to amend § 101.48 of Title 42, Code of Federal Regulations (CFR). The proposed amendment will establish the appropriate Professional Standards Review Organization (PSRO) area designation for the State of Texas in accord with section 1152(a) of the Social Security Act [42 U.S.C. 1320(1)].

This area designation proposal is undertaken as a result of the order of the United States District Court in the case of *Texas Medical Association, et al.* v. *Weinberger*, (U.S.D.C., W.D. of Texas, No. A-74-CA-102, January 9, 1976). That order set aside the nine original PSRO areas designated in Texas under the Department's regulations (42 CFR 101.48) and remanded the matter to the Secretary to again perform his statutory func-

tion of determining the appropriate PSRO area designation for Texas.

On July 13, a Notice was published in the FEDERAL REGISTER that announced the Secretary's intent to: (1) Conduct an advisory poll of Texas physicians, and (2) develop a PSRO area designation for Texas, after completing a full administrative process in compliance with the court's instructions.

On October 1, a Notice was published in the FEDERAL REGISTER that announced the Department's intent to conduct an advisory poll of physicians in Texas to determine their preference for multiple local PSRO area designations or a single statewide PSRO area designation. Ballots were then mailed to each physician engaged in active practice in the State of Texas. The tabulated results of this poll established that 14 percent favored local PSRO areas and 86 percent preferred a statewide PSRO area designation. Had this informal poll constituted the statutory "State Poll" under section 1152(g) of the Social Security Act, the Department would have been required to designate Texas as a statewide PSRO area.

The Department had contemplated a PSRO area designation for Texas only after completion of an administrative process similar to that implemented during 1973 for the original PSRO area designations throughout the nation. However, review of the information received during the course of the litigation concerning the Texas area designation, as well as recent information submitted to the Department which resulted in the designation of multiple Health Service Areas in Texas, has led to the expectation that the consequence of repeating a full administrative process similar to the one conducted in 1973 would be the designation, in conformance with Departmental guidelines, of multiple PSRO areas in Texas. This, in turn, would require the Department to conduct the statutory "State Poll" of Texas physicians in accordance with section 1152(g) of the Social Security Act. Moreover, the results of the informal poll, which show overwhelming support among Texas physicians for a single area, clearly indicate that the Department would almost certainly be required to designate Texas as a statewide PSRO area as the result of any formal statutory poll.

During the past two years, significant progress has been made nationally in the implementation of the PSRO program to the degree that the program is now implemented in full or in part in virtually every State. To date, however, there is no PSRO activity in Texas, largely as a consequence of the area designation issue. After careful consideration of the Department's overriding desire to expedite the timely establishment of the PSRO program in Texas, and in light of the considerable delay that completion of the entire designation and statutory "State Poll" processes would entail and the clear probability of the results of these processes, the Secretary here proposes that the State of Texas be designated as a single PSRO area.

Interested persons are invited to submit written comments, suggestions or objections concerning this proposal to the Director, Bureau of Quality Assurance, Health Services Administration, Room 16A-55, 5600 Fishers Lane, Rockville, Maryland 20857, on or before January 27, 1977. All comments received in timely response to this Notice will be considered and will be available for public inspection in the above named office during regular business hours.

It is therefore proposed to amend § 101.48 of Subpart A, Part 101 of Title 42 to read as follows:

§ 101.48 Texas.

The State of Texas is designated as a single Professional Standards Review Organization area.

Dated: December 21, 1976.

DAVID MATHEWS,
Secretary.

[FR Doc.76-37967 Filed 12-27-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

[45 CFR Part 613]

PRIVACY ACT REGULATIONS

Correction of Records, Procedures for Requests for Access to or Disclosure of Records

Notice is hereby given that the Director of the National Science Foundation proposes to amend certain portions of Part 613 of Chapter VI of Title 45 of the Code of Federal Regulations.

These amendments conform the regulations to amendments and additions to NSF systems of records made since these regulations were initially published. They also establish a 30-day norm for the initial processing of requests for correction of records and establish procedures for obtaining access to accountings of disclosures made pursuant to 5 U.S.C. 552 a(c).

Written comments concerning these proposed amendments are invited. Comments should be addressed to the Director, National Science Foundation, ATTN: General Counsel, Washington, D.C. 20550, and mailed on or before January 24, 1977.

The proposed amendments to 45 CFR Part 613 are these:

1. Section 613.4(c) is to be amended by adding the following sentence at the end:

§ 613.4 Correction of records.

* * * * * *

(c) * * *

Such letter or notification that the desired correction will be made shall normally be sent within 30 working days of the receipt of a properly addressed request (or within 30 working days of the time the Privacy Act Officer becomes aware that a particular communication not addressed as prescribed above is a request for correction of a record under the Privacy Act.)

2. Section 613.3 is amended by substituting the following list of systems of records for the current list in § 613.3(b), and by adding a new paragraph (c) as follows:

Procedures for requests for access to or disclosure of records pertaining to an individual.

* * * * *

(b) * * *

Employment Inquiries and Background Information
Applicants to Committee on the Chalenges and Modern Society Fellowship Program (NATO);
Confidential Statements of Employment and Financial Interests;
Congressional Contact Files;
Doctorate Records File;
Earnings and Tax Statements;
Employee Grievance and Appeals File;
Employee Payroll Jackets;
Equal Employment Opportunity Case File;
Fellowship and Traineeship Filing System;
Grants to Individuals;
Health Service Medical Records;
Intergovernmental Personnel Act Assignment Agreements;
Manpower Management Subsystem;
Medical Examination Records for Service in Antarctica;
Minority Applicants for Employment;
Nominees for and Recipients of the National Medal of Science;
NSF Payroll System;
Official Passports;
Official Personnel Folders;
Presidential Internships in Science and Engineering;
Science Education Participant Information Subsystem;
Separated Employees Service Record (SF7);
Student Science Training Program Participant Information;
Time and Attendance Reports;
U.S. Antarctic Research Program Personal Information;
United States Antarctic Research Program Field Participants;
Alien Applications for Consideration of Waiver of Two-Year Foreign Residence Requirements—NSF;
Reviewer/Panelist Information Subsystem; and Nominees for and Recipients of the Alan T. Waterman Award Nomination File.

* * * * *

(c) The procedures of paragraphs (a)-(d) of this section shall also apply to requests made pursuant to 5 USC 552a(c)(3) that accountings made under 5 USC 552a(c)(1) be made available.

Date: December 20, 1976.

RICHARD C. ATKINSON,
Acting Director.

[FR Doc.76-37791 Filed 12-27-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1012]

[EX PARTE NO. 333]

MEETINGS OF THE COMMISSION

Proposed Rulemaking and Order

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 21st day of December, 1976.

The "Government in the Sunshine Act" (Pub. L. 94-409) enacted September 13, 1976, added a new section 552b to the Administrative Procedure Act, 5 U.S.C. 552b (section 552b is referred to herein as

the "Act"), establishing requirements and guidelines for the conduct of meetings by members of multi-member government agencies, including the Interstate Commerce Commission. Paragraph (g) of the Act requires each agency to issue regulations implementing the Act within 180 days of its enactment. The appendix to this notice and order contains the regulations which the Commission proposes to issue in response to this requirement.

The accompanying order provides that public comment on the proposed regulations must be filed by February 15, 1977. In addition, the Commission is forwarding a copy to the Chairman of the Administrative Conference of the United States. Commission staff members have consulted with representatives of his office with respect to the proposed regulations, as paragraph (g) requires. A section-by-section analysis of the proposed regulations follows.

Section 1012.1 of the proposed regulations provides an introduction to the substantive regulations and contains a general definition of the term "meeting". Paragraph (a) states that they apply not only to deliberative meetings—which the Commission terms conferences—but also to oral arguments and meetings of committees of the Commission.

The bulk of the Commission's workload in disposing of the formal cases that come before it is handled by one of the three "Divisions" of three Commissioners each into which the Commission is subdivided, or by boards of employees which are delegated decision-making authority by the Commission. Meetings of the Divisions would be covered by the proposed regulations, but meetings of employee boards would not. In addition, the Commission has three standing committees: on Rules, Legislation, and Policy Planning. At times, although infrequently, one of the standing committees acts on behalf of the Commission. In such a situation, its meetings would be covered by the proposed regulations. Where a committee or a Division meets solely to make internal recommendations to the Commission, its meetings would not be covered.

Section 1012.1(b) states that the terms "meeting" (which is used in the Act) and "conference" (the term normally used by the Commission) are interchangeable and that they mean "deliberations of a majority of the members of the Commission or a Division where such deliberations determine or result in the joint conduct or disposition of Commission business." The quoted language reflects that contained in paragraph (a)(2) of the Act. Meetings called to decide whether to close future meetings are excluded from the definition. This paragraph also states that the regulations do not apply to the deliberations of employee boards which have been delegated decision-making authority by the Commission.

In dealing with routine matters, the votes of the Comissioners are normally taken in writing rather than at a conference. It is the Commission's understanding of the Act that it was not intended to affect the practice of notation voting, where the agency members vote individually on matters circulated to them in writing, and § 1012.1(c) excludes notation voting from the scope of the proposed regulations. However, in an effort to conform to the greatest extent possible with the spirit of the new legislation, the Commission proposes to make available copies of the votes, or other statements of position, of all Commissioners eligible to participate in any matter voted on by notation.

Section 1012.2 contains general information concerning the scheduling of Commission conferences and other meetings. Paragraph (a) states that these are usually held at the ICC headquarters building in Washington, but it provides for alternative sites upon the giving of advance notice. Paragraph (b) reflects the Commission's normal practice of holding regular conferences on the first and third Tuesdays of each month and of scheduling oral arguments, to the extent possible, on the first and third Wednesdays. Paragraph (c) provides for the calling of special Commission conferences, Division conferences and committee meetings. Under paragraph (d), provision is made—for the convenience of the public—for scheduling those portions of any meeting which may be open to the public at the beginning of the meeting, and for deferring closed items until the end.

Section 1012.3 of the proposed regulations provides for the scheduling of Commission meetings and the giving of public notice of those meetings. Paragraph (a) of § 1012.3 provides for the giving of formal notice to the parties to a proceeding which is the subject of a meeting through the normal process serving procedures of the Commission, the filing of the notice with the Secretary of the Commission, and through publication in the FEDERAL REGISTER. For the convenience of the public generally, and of the press in particular, notice of meetings will also be posted on a bulletin board to be provided for that purpose in the Commission's Public Information Office.

Paragraph (a) contains an exception reflecting language contained in paragraph (c) of the Act which provides that when an agency finds that the information is exempt from disclosure, it may withold information pertaining to a meeting normally required to be made public under paragraphs (d) and (e). The Commission anticipates giving effect to this exception only in unusual cases. For example, if it should become known that the Commission is considering a major railroad or truckline merger, speculation in the securities of the companies involved may ensue. It could well be in the public interest not to disclose the precise time when the Commission plans to consider such matters. Another example would be the discussion of the possible censure of an individual, where the mere fact that the matter is under consideration might cause damage to that individual's reputation. In cases such as these, advance notice of the holding of the meeting would not be given.

Paragraph (b) spells out the contents of the public notice of a meeting. As required by paragraph (e)(1) of the Act, the notice will include the date, time, place, and subject matter of the meeting, whether it is open or closed to the public, and the name and telephone number of the Commission official designated to respond to requests for information about the meeting. The designated official will normally be the Commission's Public Information Officer, but where it is deemed necessary due to the nature of the subject of a meeting, some other official with specialized knowledge about the matter under consideration may be designated by the Commission to respond to inquiries.

Paragraph (b) further provides that, if a meeting or a portion of a meeting is closed to the public, the notice will include an explanation of the action taken in closing the meeting. If any vote is taken on whether to close a meeting, the notice will also contain a statement of the vote or position of each Commissioner eligible to participate in that vote. In such a case, and unless the Commission finds that information about the meeting is exempt from disclosure under the Act, the notice will be posted within one working day following completion of the voting.

Section 1012.3(c) provides for the giving of one week's public notice of any meeting subject to this section, as required by paragraph (e)(1) of the Act. Reference is made to exceptions to this provision which are spelled out in the two immediately succeeding paragraphs.

Paragraph (d) of § 1012.3 provides for the conveming of meetings on less than one week's notice where the subject of the meeting is a matter in which, under applicable provisions of the Interstate Commerce Act, the decision must normally be rendered within a very brief period after the matter comes before the Commission. This provision of the regulations is limited in its applicability to three types of proceedings.

The first involves the filing of a tariff or schedule affecting rates, fares, charges, classifications, or practices of a carrier. Tariffs or schedules may be made effective on 30 days' notice unless suspended by the Commission. In order to allow interested parties an opportunity to submit their views within the limited statutory time frame, the Commission's procedural regulations (49 CFR 1100.200) provide for a very brief period for a decision to be made. Thus, it would almost always be impossible for a full week's notice to be given of any necessary Commission or Division conference called to take action at the "suspension" stage of a rate proceeding.

The second situation in which a meeting would normally be called on short notice involves requests by carriers to deviate from the normal 30-day requirement for filing tariffs. These "special

permission" applications are entertained only in exceptional circumstances, when time is normally of the essence.

The third special situation covered by paragraph (d) is that involving applications for temporary authority filed by motor and water carriers. Temporary authorities are granted only to meet, in the words of the statute an "immediate and urgent need." Thus, it is almost inevitable that action must be taken on exceedingly short notice.

Public comment is requested on the question whether the Commission is empowered to promulgate a regulation such as that proposed in paragraph (d).

Section 1012.3(e), recognizing the fact that Commission meetings to deal with subjects other than those described in paragraph (d) must from time-to-time be called on less than one week's notice, makes provision for the Commission or a Division to take such action. It reflects the provisions of paragraph (e) (1) of the Act which permits the convening of a meeting on short notice if a majority of the agency members eligible to participate in that meeting determines, by recorded vote, that agency business requires the meeting to be called on less than one week's notice.

Paragraph (f) provides that the Commissioner requesting that a particular item be listed for conference, or requesting that a conference be called, may, in the absence of objection, remove that item from the conference agenda or have the conference cancelled. Except for this situation, changes in the scheduling of a meeting about which public notice has been given would be accomplished only as a result of a vote of the majority of the Commissioners eligible to participate. In either event, public announcement would be made of the scheduling change as early as possible.

Section 1012.4 of the proposed regulations provides certain guidelines for public participation in Commission meetings. Paragraph (a) provides that where Commission or Division conferences or meetings are open to the public, members of the public will be admitted as observers only, and may not take an active part in the discussions, such as by questioning the members of the Commission who are holding the meeting. This paragraph provides that the presiding officer at the meeting will retain the authority to require a person violating this provision to leave the meeting room.

Paragraph (b) states that oral arguments, which may be held either by the Commission or a Division, are always open to the public. It points out that the scheduling of participation in oral arguments is governed by the appropriate provisions of the Commission's General Rules of Practice which appear at 49 CFR 1100.98.

Section 1012.5 deals with the records which are required to be kept of meetings subject to the proposed regulations. Provision is made here for the making of a transcript, sound recording, or minutes of all closed meetings subject to these regulations. These regulations are adopted pursuant to the provisions of paragraph (f) of the Act.

Paragraph (a) provides that the Commission will retain the transcript or recording of each meeting for the period of time specified in paragraph (f) (1) of the Act. Paragraph (c) provides that the record of those portions of a closed meeting which it is later determined should have been open to the public will be made available. Under paragraph (c), the presiding officer at any meeting which is closed to the public will be required to provide a statement setting forth the time and place of the meeting, the names and affiliations of those attending, the subject matter, the action taken, and a copy of the certification issued by the Commission's General Counsel that, in his opinion, the meeting was one that might properly be closed to the public.

Section 1012.6 of the proposed regulations deals with petitions filed by interested parties or other members of the public seeking to have a particular Commission meeting opened or closed to the public. Paragraph (a) provides that the Commission will entertain petitions requesting either the opening or closing of the particular meetings. It also sets the requirement concerning numbers of copies of such petitions which must be filed.

Paragraph (b) permits the filing by any interested person of a petition to open a meeting which the Commission has proposed be closed to the public.

Paragraph (c) reflects the provisions of paragraph (d) (2) of the Act. It provides that in certain instances petitions to close a meeting which the Commission proposes to be opened to the public will be entertained. The circumstances under which such a petition will be entertained are those in which the meeting involves accusing a person of a crime or censoring a person; disclosing information of a personal nature; disclosing trade secrets or other confidential information; and disclosing certain facts connected with enforcement proceedings, but only to the extent that such proceedings are conducted by an agency other than the Commission. In connection with this last provision, it is the Commission's intention that its own staff units, such as its Bureau of Enforcement, would not be eligible to seek the closure of a meeting under this provision. To the extent that a meeting involves an investigation or law enforcement activity being conducted by the Commission itself, any closure of the meeting would have to be made pursuant to the provisions of § 1012.7 of the proposed regulations, which are discussed below.

Paragraph (d) provides that the Commission will make every effort to dispose of petitions to open or close a particular meeting in advance of the meeting date. However, it takes account of the fact that the Commission may not be able to dispose of petitions which are filed only a short time prior to the scheduled meeting date before the meeting actually begins. In such situations, this paragraph of the proposed rules provides that such a petition may be disposed of as the first order of business at the meeting, and that in such a case, the Commission's decision will be communicated to the petitioner orally through some appropriate spokesperson.

Section 1012.7 of the proposed regulations contains provisions for closing meetings to the public where they fall within one of the statutory exemptions provided in paragraph (c) of the Act.

Paragraph (a) provides that a meeting may be closed under this section only if a majority of the Commissioners eligible to participate votes to close the meeting. Provision for posting notice of that vote is contained in § 1012.3(b) (4) of the regulations.

Paragraph (b) provides for the taking of a single vote to close a series of meetings on the same or related subjects, as permitted by paragraph (d) (1) of the Act.

Paragraph (c) makes provision for the issuance, prior to the commencement of any meeting closed under this section, of the General Counsel's certification, required by paragraph (f) (1) of the Act, that the meeting is one that may properly be closed to the public.

Paragraph (d) lists the subjects of meetings which may be closed to the public under this section. The subject-matter listing reflects the exemptions contained in paragraph (c) of the Act, except that the exemption of paragraph (c) (8) is omitted inasmuch as the Commission is not an agency which regulates financial institutions.

The Commission also considered whether to adopt regulations under 5 U.S.C. 552b(d) (4) which authorizes an agency, a majority of whose meetings may properly be closed to the public pursuant to paragraphs (4), (8), (9) (A), or (10) of subsection (c), or any combination thereof, to provide by regulation for the closing of such meetings or portions thereof in the event that a majority of the members, by recorded vote at the beginning of such meeting, or portion thereof, votes to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each member on the question, is made available to the public. Although a majority of the Commission voted not to propose adoption of such regulations, we invite comments on this approach.

All persons interested in commenting on the proposed regulations contained in the appendix to this notice and order are invited to file written statements with the Commission. An original and 15 copies of such statements should be submitted on or before February 15, 1977, to:

The Secretary, Interstate Commerce Commission, Washington, DC 20423.

It is ordered, That a proceeding be, and it is hereby, instituted for the purpose of adding a new part 1012 to Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations to adopt regulations implementing the provisions of section 3(a) of the Government in the Sunshine Act, Pub. L. 94-309, 90 Stat. 1241;

It is further ordered, That any interested person may participate in this pro-

ceeding by submitting to the Commission an original and 15 copies of a written statement of views, arguments, or other comments regarding the proposed regulations on or before February 15, 1977; and that no oral hearing is contemplated at this time.

It is further ordered, That a copy of this notice and order be served on the Chairman of the Administrative Conference of the United States; that a copy be deposited in the Office of the Secretary of the Interstate Commerce Commission for public inspection; and that statutory notice of the institution of this proceeding be given by delivery of a copy of this notice and order to the Director, Office of the Federal Register, for publication.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission, Commissioners Murphy, Hardin, Gresham, and MacFarland dissenting in part.

ROBERT L. OSWALD,
Secretary.

It is proposed that Part 1012 be added to read as follows:

PART 1012—MEETINGS OF THE COMMISSION

Sec.
1012.1 General provisions.
1012.2 Time and place of meetings.
1012.3 Public notice.
1012.4 Public participation.
1012.5 Transcripts; minutes.
1012.6 Petitions seeking to open or close a meeting.
1012.7 Meetings which may be closed to the public.

AUTHORITY: 5 U.S.C. 552b(g), as amended by Pub. L. 94-409, 90 Stat. 1241 (49 U.S.C. 17(3), 24 Stat. 385, as amended).

§ 1012.1 General provisions.

(a) The regulations contained in this part are issued pursuant to the provisions of 5 U.S.C. 552b(g), added by section 3(a) of the Government in the Sunshine Act, Pub. L. 94-409 (Act), and section 17(3) of the Interstate Commerce Act. They establish procedures under which meetings of the Interstate Commerce Commission (Commission), Divisions of the Commission (Division), and standing committees of the Commission are held. They apply to oral arguments as well as to deliberative conferences. They apply to meetings of Divisions and committees of the Commission where the Division or committee is empowered to act on the Commission's behalf, but not where a Division or committee is meeting only to formulate an internal recommendation to the Commission. They include provisions for giving advance public notice of meetings, for holding meetings which may lawfully be closed to the public, and for issuing minutes and transcripts of meetings.

(b) The words "meeting" and "conference" are used interchangeably in this part to mean the deliberations of at least a majority of the members of the Commission, a Division, or a committee of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business. They do not include meetings held to determine whether some future meeting should be open or closed to the public. They do not include the deliberations of members of boards of employees of the Commission.

(c) These regulations are not intended to govern situations in which members of the Commission consider individually and vote by notation upon matters which are circulated to them in writing. Copies of the votes or statements of position of all Commissioners eligible to participate in action taken by notation voting will be made available, upon written request to the Secretary of the Commission, as soon as possible after the date upon which the action taken is made public or any decision or order adopted is served.

§ 1012.2 Time and place of meetings.

(a) Conferences, oral arguments, and other meetings are held at the Commission's headquarters building at the northwest corner of 12th Street and Constitution Avenue in Washington, DC, unless advance notice of an alternative site is given. Room assignments for meetings will be posted on the day of the meeting at the Constitution Avenue entrance to the Interstate Commerce Commission building and at the Commission's Public Information Office (room 1211).

(b) Regular Commission conferences are held on the first and third Tuesdays of each month, or on the following day if the regular conference day is a holiday. Oral arguments before the Commission are normally scheduled on the first or third Wednesday of each month. Regular Commission conferences and oral arguments before the Commission or a Division normally begin at 9:30 a.m. A luncheon recess is taken at approximately noon, and other recesses may be called by the presiding officer. Times for reconvening following a recess, or on subsequent days if a conference or oral argument lasts more than one day, are set by the presiding officer at the time the recess is announced.

(c) Special Commission conferences, Division conferences, oral arguments before a Division, and meetings of committees of the Commission are scheduled by the Chairman of the Commission or of the respective Division or committee.

(d) If one or more portions of the same meeting are open to the public while another portion or other portions are closed, all those portions of the meeting which are open to the public are scheduled at the beginning of the meeting agenda, and are followed by those portions which are closed.

§ 1012.3 Public notice.

(a) Unless a majority of the Commission determines that such information is exempt from disclosure under the Act, public notice of the scheduling of a meeting will be given by posting a notice on a bulletin board in the Commission's Public Information Office, by filing a copy of the notice with the Secretary of the Commission for posting and for service on all parties of record in any proceeding which is the subject of the meeting, and by submitting a copy of the notice for publication in the FEDERAL REGISTER.

(b) Public notice of a scheduled meeting will contain—

(1) The date, time, place, and subject matter of the meeting.

(2) Whether it is open to the public.

(3) If the meeting or any portion of the meeting is not open to the public, an explanation of the action taken in closing the meeting or portion of the meeting, together with a list of those expected to attend the meeting and their affiliations.

(4) If a vote is taken on the question whether to close a meeting or a portion of a meeting to the public, a statement of the vote or position of each Commissioner eligible to participate in that vote. If such a vote is taken, public notice of its result will be posted within one working day following completion of the voting. If the result of the vote is to close the meeting or a portion of the meeting, an explanation of that action will be included in the notice to be issued within one working day following completion of the voting. The public notice otherwise required by this subparagraph may be withheld if the Commission finds that such information is exempt from disclosure under the Act.

(5) The name and telephone number of the Commission official designated to respond to requests for information about the meeting. Unless otherwise specified, that official will be the Commission's Public Information Officer, whose telephone number is (202) 275-7252.

(c) Except as provided in paragraphs (d) and (e) of this section, public notice will be given at least one week before the date upon which a meeting is scheduled.

(d) Due and timely execution of the Commission's functions will not normally permit the given of one week's public notice of meetings called to consider or determine whether to suspend or investigate a tariff or schedule under section 15(7), 15(8), 216(g), 218(c), 307(g), 307(i), or 406(e) of the Interstate Commerce Act (49 U.S.C. 15(7), 15(8), 316(g), 318(c), 907(g), 907(i), 1006(e)); to consider whether to grant special permission to deviate from tariff filing requirements under section 6(3), 217(c), 218(a), 306(d), 306(e), or 405(d) of the Interstate Commerce Act (49 U.S.C. 6(3), 317(c), 318(a), 906(d), 906(e) or 1005(d)); or to consider or dispose of an application for temporary authority under section 210a(a) or 311(a) of the Interstate Commerce Act (49 U.S.C. 310a(a) or 911(a)). Such meetings will normally be called on less than one week's notice, and public notice will be posted and published at the earliest practicable time.

(e) If a majority of the Commissioners eligible to participate in the conduct or disposition of the matter which is the

subject of a meeting determines, by recorded vote, that Commission business requires that a meeting be called on less than one week's notice, the meeting may be called on short notice, and public notice will be posted and published at the earliest practicable time.

(f) Changes in the scheduling of a meeting which has been the subject of a public notice will also be made the subject of a public notice, which will be posted at the earliest practicable time. In the absence of objection by another Commissioner, an item may be removed from a conference agenda, or a conference cancelled, at the request of the Commissioner at whose request the item was listed or the conference called. Other changes in, or additions to, a conference agenda or in the open or closed status of a meeting will be made only if a majority of the Commissioners eligible to participate in the conduct or disposition of the matter which is the subject of the meeting determines, by recorded vote, that the Commission's business requires such change and that no earlier announcement of the change was possible. In such a case, the public notice of the change, will show the vote of each Commissioner on the change.

§ 1012.4 Public participation.

(a) In the case of Commission or Division conferences or meetings of committees of the Commission which are open to the public, members of the public will be admitted as observers only. Active public participation, as by asking questions or attempting to participate in the discussions, will not be permitted, and anyone violating this proscription may be required to leave the meeting by the presiding officer.

(b) Oral arguments are always open to the public. The scheduling of participants in the arguments and the allotment of time is governed by the Commission's General Rules of Practice, 49 C.F.R. 1100.98.

§ 1012.5 Transcripts; minutes.

(a) A verbatim transcript, sound recording or minutes will be made of all meetings closed to the public under these regulations, and will be retained by the Commission for two years following the date upon which the meeting ended, or until one year after the conclusion of any proceeding with respect to which the meeting was held, whichever occurs later. In the case of meetings closed to the public under § 1012.7(d) (1) through (7) and (9) of this part, a transcript or recording rather than minutes will be made and retained.

(b) The Commission will make available, upon request, the minutes, transcript or recording of all portions of the meeting except those which it finds to be properly exempt from disclosure under the Act. A copy of such minutes, transcript or recording will be provided, upon request, upon payment of the actual cost of duplication or transcription.

(c) In the case of all meetings closed to the public, the presiding officer shall cause to be made, and the Commission shall retain, a statement setting forth:

(1) The date, time, and place of the meeting;

(2) The names and affiliations of those attending;

(3) The subject matter;

(4) The action taken, and

(5) A copy of the certification issued by the General Counsel that, in his or her opinion, the meeting was one that might properly be closed to the public.

§ 1012.6 Petitions seeking to open or close a meeting.

(a) The Commission will entertain petitions requesting either the opening of a meeting proposed to be closed to the public or the closing of a meeting proposed to be open to the public. In the case of a meeting of the Commission, the original and 15 copies of such a petition shall be filed, and in the case of a meeting of a Division or committee of the Commission, an original and five copies shall be filed.

(b) A petition to open a meeting proposed to be closed, filed by any interested person, will be entertained.

(c) A petition to close a meeting proposed to be open will be entertained only in cases in which the subject of the meeting would:

(1) Involve accusing a person of a crime or formally censuring a person;

(2) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(3) Disclose trade secrets or commercial or financial information obtained on a privileged or confidential basis; and

(4) Disclose investigatory records or information, compiled for law enforcement purposes, to the extent that the production of such records or information would (i) interfere with enforcement proceedings being conducted or under consideration by an agency other than the Commission; (ii) deprive a person of a right to a fair trial or an impartial adjudication; (iii) constitute an unwarranted invasion of personal privacy; (iv) disclose the identity of a confidential investigation agency or a national security intelligence agency; (v) disclose investigative techniques and procedures of an agency other than the Commission; or (vi) endanger the life or physical safety of law enforcement personnel.

(d) Every effort will be made to dispose of petitions to open or close a meeting in advance of the meeting date. However, if such a petition is received less than three working days prior to the date of the meeting, it may be disposed of as the first order of business at the meeting, in which case the decision will be communicated to the petitioner orally through the Commission's Public Information Officer or other spokesperson.

§ 1012.7 Meetings which may be closed to the public.

(a) A meeting may be closed pursuant to this section only if a majority of the Commissioners eligible to participate in the conduct or disposition of the matter which is the subject of the meeting votes to close the meeting.

(b) A single vote may be taken to close a series of meetings on the same or related subjects held within 30 days of the initial meeting in the series.

(c) With respect to any meeting closed to the public under this section, the General Counsel of the Commission will issue his or her certification that, in his opinion, the meeting is one which may properly be closed pursuant to one or more of the provisions of paragraph (d) of this section.

(d) Meetings or portions of meetings may be closed to the public if the meeting or portion thereof is likely to:

(1) Disclose matters (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552); *Provided*, that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets or commercial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a chime, or formally censuring any persons;

(6) Disclose information of personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and (in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation) disclose confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information the premature disclosure of which could (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution;

(9) Disclose information, the premature disclosure of which would be likely significantly to frustrate implementation of a proposed Commission action, except that this subparagraph shall not apply in any instance after the con-

tent or nature of the proposed Commission action has already been disclosed to the public by the Commission, or where the Commission is required by law to make such disclosure prior to the taking of final Commission action on such proposal;

(10) Specifically concern the issuance of a subpoena;

(11) Specifically concern the Commission's participation in a civil action or proceeding or an arbitration; and

(12) Specifically concern the initiation, conduct, or disposition of a particular case or formal adjudication conducted pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after an opportunity for hearing.

[FR Doc.76-38077 Filed 12-27-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

MEDITERRANEAN FRUIT FLY BARRIER PROGRAM IN LATIN AMERICA

Draft Environmental Impact Statement

• Purpose: To give notice of the intent to prepare a draft environmental impact statement on a proposed barrier program in Latin America against the Mediterranean fruit fly to prevent spread of the pest to the United States. •

The Animal and Plant Health Inspection Service (APHIS) is proposing a cooperative program in Latin America under authority of the Organic Act, as amended, (7 U.S.C. 147a) to prevent the spread of the Mediterranean fruit fly into the United States.

The Mediterranean fruit fly, *Ceratitis capitata* Wied., is one of the world's most destructive pests of fruits and vegetables, especially citrus fruits. It is a native of the Mediterranean area and is known to attack over 200 kinds of fruits and vegetables and can cause serious economic losses. Heavy infestation can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. Its short life cycle permits the rapid development of serious outbreaks.

The Mediterranean fruit fly has occurred in the United States several times, however, because of prompt emergency measures it was successfully eradicated each time.

The last infestation was discovered in Los Angeles, California, in September 1975 and was declared eradicated on August 2, 1976 (41 FR 32229). Constant vigilance against reintroduction of the fly and prompt eradication efforts are the most effective means of dealing with this pest.

The recently amended Organic Act gives the Department the authority to cooperate with foreign governments in the Western Hemisphere. The proposed program would involve survey, regulatory, and control actions against the pest in northern Central America to prevent the natural or artificial spread of the pest into Mexico and subsequently into the United States. This will be a cooperative effort between the Animal and Plant Health Inspection Service, the Central American countries, and Mexico.

Survey actions will involve the use of traps to detect, delimit, and determine population levels of the pest. Regulatory activities will be directed at preventing the movement of host material into and through noninfested areas. Control efforts will involve chemical application of ultralow volume (ULV) materials, use of bait sprays, and the release of sterile flies in a barrier zone to prevent the natural spread of the Mediterranean fruit fly.

Therefore, this gives notice that an environmental impact statement is under preparation pursuant to section 102 (2) (C) of the National Environmental Policy Act of 1969, by the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service. The first draft is scheduled for completion on June 1, 1977.

To provide opportunity for participation in the development of the draft environmental impact statement, comments are invited from the public, from State and local agencies which administer plant pest control regulatory programs or are authorized to develop and enforce environmental standards, and from Federal Agencies having jurisdiction by law or special expertise with respect to any national program, issue, or environmental impact involved.

Comments concerning matters that should be addressed in the proposed environmental impact statement and requests for additional information should be addressed to the Environmental Evaluation Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782, by January 27, 1977.

The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 16th day of December 1976.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.76-37593 Filed 12-27-76;8:45 am]

[PPQ 639]

SOIL SAMPLES

List of Approved Laboratories for Receipt of Certain Soil Samples

• The purpose of this document is to revise the list of laboratories approved to receive shipments of soil samples for analysis. •

This document lists certain laboratories as indicated herein which are approved by the Deputy Administrator for receipt in interstate commerce of soil samples for processing, testing, or analysis pursuant to §§ 301.48-3, 301.80-3, 301.81-3, 301.85-3, of the Japanese beetle, witchweed, imported fire ant, and golden nematode regulations (7 CFR 301.48-3, 301.80-3, 301.81-3, 301.85-3).

Also, in connection with the regulations relating to the movement into or through the United States of soil from foreign countries or Territories or possessions of the United States (7 CFR 330.300 *et seq.*), this document lists certain laboratories as indicated herein which the Deputy Administrator has approved for receipt, under permit, of soil samples for research or analytical purposes in accordance with safeguards and other conditions specified in the permits.

The list reads as follows:

LABORATORY AND ADDRESS

A

A&H Corp., Consulting Engineers, Carbondale, IL
A&H Corp., Consulting Engineers, Champaign, IL
A&H Corp., Consulting Engineers, Chicago, IL
A&H Corp., Consulting Engineers, Peoria, IL
A&H Engineering Corp., Springfield, IL
A&L Laboratory, Memphis, TN[2] (6-30-79) [1]
A&L Midwest Agriculture Laboratory, Inc., Omaha, NE[2] (2-28-78)
Abbott Laboratories, North Chicago, IL
Ackenheil, A. C., & Associates, Inc., Nitro, WV
Ackenheil, A. C., & Associates, Inc., Pittsburgh, PA
Agrico Chemical Co., Washington Courthouse, OH
Agricultural Environmental Systems, Inc., Raleigh, NC[2] (6-30-81)
Agricultural Service Laboratories, Pharr, TX[2] (6-30-77)
Agricultural Technical Service (ATS), Bakersfield, CA[2] (5-31-79)
Agrimanagement, Yakima, WA
Alaska, University of, Agriculture Experiment Station, Palmer, AK[2] (8-31-78)
Alfred Agricultural and Technical Institute, State University of New York, Department of Agronomy, Alfred, NY
Allied Chemical Corp., Morristown, NJ
Alum-A-Therm, Westminster, CA
Ambric Testing & Engineering Associates, Inc., Testing Laboratories, Arlington, VA
Amchem Products, Inc., Ambler, PA[2] (12-31-77)
American Cyanamid Co., Princeton, NJ[2] (6-30-80)
American Oil Co., Soil Laboratories, Holland, TX
American Oil Co., Soil Testing Laboratory, Yoder, IN
American Testing Engineering Corporation, ATEC Associates, Inc., Indianapolis, IN

[1] See footnotes at end of document.

American Testing Institute, San Diego, CA[2] (9–30–77)
Ameron, South Gate, CA
Amoco, Soil Guide Laboratory, Rochelle, GA
Anaerobe Laboratory, Virginia Polytechnic Institute and State University, Blacksburg, VA
Analysis Laboratories, Inc., Metairie, LA
Analytical Biochemistry Laboratories, Inc., Columbia, MO
Analytical Development Corp., Monument, CO[2] (6–30–79)
Analytical Research Labs., Inc., Monrovia, CA[2] (11–30–78)
Anco Testing Laboratory, Inc., St. Louis, MO
Applied Agricultural Research, Inc., Lakeland, FL[2] (6–30–77)
Arizona State University, Tempe, AZ
Arizona State University, Department of Anthropology, Tempe, AZ[2] (6–30–79)
Arizona Testing Laboratory, Phoenix, AZ
Arizona, University of, Department of Geosciences, Tucson, AZ[2] (6–30–80)
Arizona, University of, Department of Plant Pathology, Tucson, AZ[2] (6–30–77)
Arizona, University of, Department of Soils, Water, and Engineering, Tucson, AZ[2] (6–30–80)
Arkansas, University of, Experiment Station, Fayetteville, AR
Arkansas Highway Department, Materials and Testing Laboratory, Little Rock, AR
Arkansas Laboratories, Inc., Fort Smith, AR
Armac Engineering, Inc., Tampa, FL[2] (12–31–77)
Asphalt Institute, College Park, MD[2] (5–31–78)
Asphalt Technology, Bellmawr, NJ
Astrotech, Inc., Harrisburg, PA
Atkins Farmlab, Chico, CA
Atlanta Testing & Engineering Co., Norcross, GA[2] (6–30–81)
Auburn University, Soil Testing Laboratory, Auburn, AL

B

Babcock, Edward S. & Sons, Riverside, CA
Baker, Michael, Inc., Rochester, PA
Barbot, D. C. & Associates, Inc., Florence, SC
Barrow-Agee Laboratories, Inc., Memphis, TN[1]
Battelle Northwest Laboratory, Richland, WA[2] (4–30–78)
B. C. Laboratories, Inc., Bakersfield, CA[2] (4–30–78)
Bechtel Corp., San Francisco, CA
Beckman, Inc., Microbics Operations, La Habra, CA
Belleville Area College Agricultural Club (Dust Kickers), Belleville, IL
Benedict, Bowman, Craig and Moos, Columbus, OH
Bethany Laboratory of Uni-Royal Chemical, Division of Uni-Royal, Inc., Bethany, CT
Biological Testing and Research Laboratory, Lindsay, CA
Biospherics, Inc., Rockville, MD[2] (12–31–77)
Boring Soils & Testing Co., Inc., Harrisburg, PA
Boswell, J. G., Co., Corcoran, CA
Bowes & Associates, Steamboat Springs, CO
Bowes, William A., Steamboat Springs, CO[2] (7–31–78)
Bowser-Morner Testing Laboratories, Inc., Dayton, OH
Boyce Thompson Institute, Yonkers, NY[2] (7–31–78)
Brandley, Reinard W., Sacramento, CA
Braun Engineering Testing, Minneapolis, MN
Braun, Skaggs, and Kevorkian Engineering, Inc., Fresno, CA
Brigham Young University, Department of Anthropology & Archeology, Provo, UT[2] (1–31–77)
Bristol Laboratories, Syracuse, NY
Broeman, F. C., & Co., Cincinnati, OH
Brookhaven National Laboratory, Safety and Environmental Protection Division, Upton, NY[2] (4–30–78)
Brookside Farms Laboratory Association, Inc., New Knoxville, OH[2] (6–30–81)
Brown and Root-Northrop IRL, Houston, TX
Brown University, Division of Biological and Medical Sciences, Providence, RI[2] (6–30–78)
Brucker & Associates, St. Louis, MO

C

CIBA-Geigy Corp., Agriculture Division, Greensboro, NC[2] (6–30–77)
CPC International, Inc., Argo, IL
California Department of Food & Agriculture, Chemistry Laboratories, Sacramento, CA
California Department of Public Works, Division of Highways Materials and Research, Sacramento, CA
California State Polytechnic College, Department of Biological Sciences, Pomona, CA[2] (6–30–77)
California Testing Laboratories, South El Monte, CA
California, University of, Agricultural Extension Service, Riverside, CA
California, University of, Department of Anthropology, Davis, CA[2] (6–30–77)
California, University of, Department of Civil Engineering, Davis, CA[2] (6–30–77)
California, University of, Department of Food Science & Technology, Davis, CA[2] (6–30–77)
California, University of, Department of Forestry and Resource Management, Berkeley, CA[2] (10–31–78)
California, University of, Department of Geography, Berkeley, CA[2] (6–30–80)
California, University of, Department of Near Eastern Studies, Berkeley, CA[2] (5–31–78)
California, University of, Museum of Cultural History, Los Angeles, CA[2] (10–31–78)
California, University of (Los Angeles), Laboratory of Nuclear Medicine and Radiation Biology, Los Angeles, CA
California, University of (Southern), Department of Geological Sciences, Los Angeles, CA[2] (6–30–77)
California State College San Bernardino, Department of Biology, San Bernardino, CA[2] (6–30–77)
California State University, School of Agricultural Sciences, Department of Plant Sciences, Fresno, CA[2] (6–30–77)
Calspan Corp., Buffalo, NY
Campbell Institute for Agricultural Research, Cinnaminson, NJ[2] (6–30–77)
Campbell Institute for Agricultural Research, Riverton, NJ[2] (6–30–77)
Capozzoli, Louis J., & Associates, Inc., Baton Rouge, LA
Carpenter Construction Co., Inc., Virginia Beach, VA
Carpco, Inc., Jacksonville, FL[2] (2–28–78)
Cascade Agricultural Service Co., Mt. Vernon, WA
CELPRIL Industries, Inc., Bioagricultural Laboratory, Manteca, CA
Center for Climatic Research, Madison, WI[2] (6–30–77)
Central Michigan University, Department of Biology, Mount Pleasant, MI[2] (6–30–81)
CH²M Hill, California, Inc., Redding, CA
CH²M Hill, Inc., Corvallis, OR[2] (4–30–79)
Chemagro Corp., Kansas City, MO[2] (6–30–77)
Chembac Laboratories, Charlotte, NC
CHEM-CRETE Corp., Menlo Park, CA[2] (6–30–77)
Chemical Service Laboratory, Inc., Jeffersonville, IN[2] (6–30–77)
Chemonics Industries, Phoenix, AZ[2] (6–30–78)
Chevron Asphalt Co., Eastern Laboratory, Baltimore, MD[2] (7–31–78)
Chevron Chemical Co., Richmond, CA
Chevron Oil Field Research Co., La Habra, CA
Chicago, University of, Oriental Institute, Chicago, IL[2] (4–30–78)
Christian Testing Laboratories, Inc., Montgomery, AL
Citizens National Bank of Paris Soil Testing Laboratory, Paris, IL
Clarkson Laboratory & Supply, Inc., San Diego, CA[2] (6–30–80)
C. L. C., Columbus, OH
Clemson University, Clemson, SC
Clinton Corn Processing Company, Clinton, IA[2] (6–30–79)
Coenen and Associates-Engineers, Newport News, VA
Coleman Engineering Laboratories, Inc., Augusta, GA
Colorado State University, Department of Agronomy, Fort Collins, CO
Colorado State University, Department of Economics, Fort Collins, CO
Colorado State University, Department of Microbiology, Ft. Collins, CO[2] (6–30–80)
Colorado, University of, Department of Geological Sciences, Boulder, CO[2] (6–30–80)
Colorado, University of, Institute of Arctic and Alpine Research, Boulder, CO[2] (5–31–78)
Colorado School of Mines, Research Institute, Golden, CO[2] (6–30–80)
Columbia Glass Company, Inc., Baltimore, MD[2] (11–30–78)
Columbia Research Corporation, Irradiation Service Division, Gaithersburg, MD[2] (9–30–77)
Commercial Testing & Engineering Co., Norfolk, VA
Commonwealth Laboratory, Inc., Greenville, SC
Commonwealth Laboratory, Inc., Richmond, VA
Connecticut, University of, Soil Testing Laboratory, Plant Science Department, College of Agriculture and Natural Resources Storrs, CT
Consolidated Cigar Corp., Glastonbury, CT
Construction Aggregates Corp., Ferrysburg, MI
Contractors & Engineers Service, Inc., Fayetteville, NC
Contractors & Engineers Service, Inc., Goldsboro, NC
Cook Research Laboratories, Inc., Menlo Park, CA
Cook Associates, Oroville, CA
Cookwell Strainer, Cincinnati, OH
Cooper-Clark & Associates, Palo Alto, CA
Coors Spectro-Chemical Laboratory, Denver, CO
Core Laboratories, Inc., Aurora, CO
Core Laboratories, Inc., Houma, LA
Core Laboratories Inc., Lafayette, LA
Core Laboratories, Inc., New Orleans, LA
Core Laboratories, Inc., Shreveport, LA
Core Laboratories, Inc., Farmington, NM
Core Laboratories, Inc., Hobbs, NM
Core Laboratories, Inc., Dallas, TX
Core Laboratories, Inc., Casper, WY
Cornell University, Department of Agronomy, Ithaca, NY[2] (6–30–79)
Cornell University, Department of Floriculture and Ornamental Horticulture, Ithaca, NY
Craig Testing Laboratories, Mays Landing, NJ
Crobaugh Laboratories, Cleveland, OH
Crop Chemical Testing Services, Inc., Arcola, IL

D

Dade County Soils Laboratory, Homestead, FL[2] (6–30–77)
Dames & Moore, Denver, CO
Dames & Moore, Los Angeles, CA[2] (6–30–81)
Dames & Moore, San Francisco, CA[2] (6–30–77)

Dames & Moore, Atlanta, GA [2] (6-30-81)
Dames & Moore, Houston, TX [2] (6-30-80)
Dames & Moore, Park Ridge, IL [2] (6-30-78)
Dames & Moore, Cranford, NJ [2] (6-30-80)
Dames & Moore, Seattle, WA [2] (6-30-79)
D'Appolonia, E., Consulting Engineers, Inc., Pittsburgh, PA [2] (11-30-77)
Davey Tree Expert Co., Kent, OH
Daylin Laboratories, Inc., Los Angeles, CA
Delaware, University of, Department of Geology, Newark, DE [2] (9-30-77)
Del Monte Corp., San Leandro, CA
Del Monte Corp., Walnut Creek, CA
Delta Testing and Inspection, Inc., Baton Rouge, LA
Delta Testing and Inspection, Inc., Lafayette, LA
Delta Testing and Inspection, Inc., New Orleans, LA
Denver, University of, Department of Geography, Denver, CO [2] (6-30-77)
Diamond Shamrock Corp., Painesville, OH
Dickinson Laboratories, Inc., El Paso, TX [2] (8-31-78)
Dickinson Laboratories, Inc., Mobile, AL
Dixie Laboratories, Inc., Mobile, AL
Dow Chemical Co., Walnut Creek, CA [2] (6-30-77)
Dow Chemical Co., Midland, MI [2] (6-30-81)
Duke University, Durham, NC [2] (6-30-80)
Duke University, Department of Botany, Durham, NC
Duke University, Department of Zoology, Durham, NC [2] (6-30-81)

E

EFCO Laboratories, Tucson, AZ [2] (6-30-78)
Eagle Iron Works, Des Moines, IA [2] (6-30-77)
Eastern Michigan University, Mycology Labs Biology, Ypsilanti, MI [2] (6-30-81)
Effingham Equity, Effingham, IL
Eisenhauer Laboratories, Covina, CA
Ellerbe Architect, Bloomington, MN
Elmira College, Department of Biology, Elmira, NY [2] (6-30-80)
El Paso Chemical Laboratories, El Paso, TX [2] (6-30-78)
Emcon Associates, San Jose, CA
Empire Soils Investigations, Groton, NY
Engineering, Surveys, and Services, Columbia, MO
Engineers Laboratories, Inc., Jackson, MS
Engineers Testing Laboratories, Phoenix, AZ
Environmental Engineering, Watchung, NJ [2] (11-30-77)
Environmental Science & Engineering Corp., Mt. Juliet, TN
Environmental Statement Project, Argonne National Laboratory, Argonne, IL
Eustis Engineering Co., Metairie, LA
Evans, L. T., Inc., Los Angeles, CA
Exxon Production Research Company, Houston, TX [2] (6-30-78)

F

Farm Clinic, West Lafayette, IN
Fayette County Farm Bureau, Vandalia, IL
Federal Chemical Co., Columbus, OH
Fertilizers, John Taylor, Rio Linda, CA
Florida State University, Dept. of Geology, Tallahassee, FL
Florida Testing Laboratories, Inc., St. Petersburg, FL
Florida, University of, Agricultural Research & Education Center, Lake Alfred, FL
Florida, University of, Agricultural Extension Service, Soil Testing Laboratory, McCarty Hall, Gainesville, FL
Florida, University of, Department of Geology, Floyd Hall, Gainesville, FL [2] (6-30-79)
Florida, University of, Soil Science Department, Gainesville, FL [2] (12-31-78)
Flowers Chemical Laboratories, Altamonte Springs, FL
FMC Corporation, Agricultural Chemical Division, Middleport, NY [2] (5-31-78)
FMC Corporation, Agricultural Chemical Division, Richmond, VA
Foley, Hubert L., Jr., New Albany, MS
Foundation Engineering Consultants, Inc., Columbia, SC
Foundation Test Services, Inc., Bethesda, MD [2] (6-30-77)
Franklin, R. T., & Associates, Burbank, CA
Frederick Cancer Research Center, Chemotherapy Fermentation Laboratory, Frederick, MD [2] (6-30-78)
Froehling & Robertson, Inc., Richmond, VA [1]
Fruco & Associates, St. Louis, MO
Fruin-Colnon Corp., St. Louis, MO
Fruit Growers Laboratory, Inc., Santa Paula, CA [2] (6-30-77)
F. S. Royster Guano Co., Toledo, OH
Furgo, Inc., Long Beach, CA [2] (12-31-78)
Fuller Company, Catasauqua, PA [2] (6-30-80)

G

GREFCO, Inc., Torrance, CA [2] (6-30-78)
GREFCO, Inc., Lompoc, CA [2] (6-30-79)
GX Laboratories, Inc., Golden, CA [2] (6-30-77)
General Foods Corp., Food Products Division, Woodburn, OR [2] (6-30-80)
General Testing Laboratory, Kansas City, MO
Geochemical Surveys, Dallas, TX
Geologic Associates, Franklin, TN
Geologic Associates, Knoxville, TN
Georgia State Department of Transportation, Office of Material and Test, Forest Park, GA [1]
Georgia Testing Laboratory, Lithonia, GA
Georgia, University of, Cooperative Extension Service, Plant Pathology, Athens, GA
Georgia, University of, Department of Agronomy, Athens, GA [2] (6-30-81)
Georgia, University of, Institute of Ecology, Athens, GA [2] (6-30-80)
Geo-Survey, Inc., Camp Hill, PA
Geotechnical Consultants, Inc., Burbank, CA
Geotechnical Engineering-Testing, Inc., Mobile, AL
Geotechnical Engineers, Inc., Winchester, MA [2] (10-31-78)
Geotek Consultants, Inc., Denver, CO [2] (11-30-78)
Geo-Testing, Inc., San Rafael, CA [2] (6-30-79)
Gillen Engineering Co., Inc., Metairie, LA
Girdler Foundation & Exploration Co., Lenexa, VA
Glassmire, S. H., & Associates, Metairie, LA
Gooch, George W., Laboratory, Ltd., Los Angeles, CA
Gore Engineering, Inc., Metairie, LA
Grace, W. R., & Co., Columbia, MD [2] (6-30-77)
Grace, W. R., & Co., Fort Pierce, FL
Grace, W. R., & Co., Nashville, TN
Green Engineering Co., Sewickley, PA
Green Giant Co., Agricultural Research Department, Le Sueur, MN [2] (6-30-77)
Green Thumb Corp., Apopka, FL [2] (6-30-79)
Grimes, Walter B., & Associates, Chico, CA
Growers Chemical Corp., Milan, OH
Grubbs Consulting Engineers, Little Rock, AR
Gulf Coast Testing Laboratory, Inc., Corpus Christi, TX
Gulf South Research Institute, Baton Rouge, LA
Gulf South Research Institute, New Orleans, LA

H

Hales Testing Laboratories, Santa Clara, CA
Hales Testing Laboratories, Oakland, CA
Hanson Engineers, Inc., Springfield, IL [2] (6-30-78)
Harding-Lawson Associates, Houston, TX [2] (10-31-78)
Harding-Lawson Associates, San Rafael, CA [2] (6-30-80)
Harlan, R. C., and Associates, San Francisco, CA [2] (6-30-77)
Harris Laboratories, Inc., Lincoln, NE [2] (7-31-78)
Harvard University, Peabody Museum, Cambridge, MA [3] (6-30-78)
Harvard University, Herbaria, Cambridge, MA [2] (6-30-80)
Harza Engineering Co., Chicago, IL [2] (6-30-77)
Hawley & Hawley, Division of Skyline Labs, Inc., Tucson, AZ [2] (6-30-77)
Haynes, John H., Consulting Engineer, Dallas, TX
Hazen Research Inc., Golden, CO [2] (6-30-78)
Hazelton Laboratories, Inc., Falls Church, VA
Hector Agricultural Export Co., Miami, FL [2] (6-30-79)
Heinrichs Geoexploration Co., Tucson, AZ
Hemphill Corp., Tulsa, OK
Herbert & Associates, Virginia Beach, VA
Hercules, Inc., Wilmington, DE
Herner Analytics, Inc., Rockville, MD [2] (6-30-78)
Hess, John D., Testing Corp., El Centro, CA [2] (5-31-78)
Hoffman-LaRoche, Inc., Nutley, NJ [2] (6-30-78)
Hollywood Testing Laboratories, Hollywood, CA
Horvitz Research Laboratories, Houston, TX
Hoskins-Western-Sonderegger, Inc., Lincoln, NE [2] (6-30-77)
Hughes Aircraft Co., Culver City, CA [2] (12-31-77)
Hunt, Robert W., Co., Chicago, IL
Hunter College, Department of Anthropology, New York, NY
Hurst-Rosche Engineers, Inc., Hillsboro, IL

I

IIT Research Institute, Chicago, IL
IRI Research Institute, Inc., New York, NY
Illinois Division of Highways, Bureau of Materials, Chicago, IL
Illinois Division of Highways, Bureau of Materials, Dixon, IL
Illinois Division of Highways, Bureau of Materials, Effingham, IL
Illinois Division of Highways, Bureau of Materials, Elgin, IL
Illinois Division of Highways, Bureau of Materials, Paris, IL
Illinois Division of Highways, Bureau of Materials, Springfield, IL
Illinois Division of Highways, Carbondale, IL
Illinois Division of Highways, East St. Louis, IL
Illinois Division of Highways, Ottawa, IL
Illinois Division of Highways, Peoria, IL
Illinois, University of, Department of Agronomy, Urbana, IL
Illinois, University of, Department of Anthropology, Urbana, IL [2] (6-30-80)
Illinois, University of, at Chicago Circle, Department of Geography, Chicago, IL [2] (6-30-78)
Independent Testing Laboratories, Greensboro, NC
Indiana Farm Bureau Co-op, Indianapolis, IN
Indiana State Highway Commission, Division of Materials and Testing, Indianapolis, IN
Indiana University, Department of Geology, Bloomington, IN [2] (6-30-78)
Industrial Laboratories Co., Denver, CO
Insect and Plant Disease Clinic, Raleigh, NC
Institute for Research, Inc., Houston, TX
International Agriculture Services, San Francisco, CA [2] (6-30-77)
International Fertilizer Development Center, Muscle Shoals, AL
International Flavors and Fragrances (R & D), Union Beach, NJ [2] (3-31-73)
International Mineral & Chemical Corp., Libertyville, IL
International Mineral & Chemical Corp., Mulberry, FL
International Mineral Engineers, Inc., Golden, CO

International Research Corp., Mattawan, MI
Interpace Corp., Los Angeles, CA[2] (6-30-77)
Iowa State Highway Commission Soil Laboratory, Ames, IA
Iowa State University, Department of Agronomy, Ames, IA[3] (6-30-80)
Iowa State University, Engineering Research Institute, Ames, IA[3] (6-30-80)

J

Jennings Laboratories, Virginia Beach, VA
Jersey Testing Laboratories, Atco, NJ
Jersey Testing Laboratories, Newark, NJ
Johns Hopkins University, Department of Geography and Environmental Engineering, Baltimore, MD[2] (6-30-77)
Johnson Soil Engineering Laboratory, Palisades Park, NJ
Jones Ferro Magnetics, Inc., Jacksonville, FL[2] (1-31-78)
Joy Manufacturing Co., Denver Equipment Division, Denver, CO

K

Kaiser Agricultural Chemical Co., Sullivan, IL
Kaiser Agricultural Chemicals Corp., Savannah, GA
Kaiser Aluminum and Chemical Corp., Center for Technology, Pleasanton, CA[2] (6-30-80)
Kalo Laboratories, Inc., Quincy, IL
Kansas City Testing Laboratory, Inc., Kansas City, MO
Kansas City Testing Laboratory, Inc., Leawood, KS
Kansas, University of, Dept. of Geography-Meteorology, Lawrence, KS
Kearney Field Station, University of California, Division of Agricultural Sciences, Parlier, CA
Kelco Co., San Diego, CA[2] (6-30-81)
Kennecott Exploration, Inc., Salt Lake City, UT[2] (2-28-78)
Kentucky, University of, Department of Agronomy, Lexington, KY[2] (1-31-78)
Kentucky, University of, Division of Regulatory Services, Lexington, KY
Kinlab, Inc., Cincinnati, OH
Kleinfelder, J. H., & Associates, Fresno, CA
Kleinfelder, J. H., & Associates, Merced, CA
Kleinfelder, J. H., & Associates, Sacramento, CA
Kleinfelder, J. H., & Associates, Stockton, CA[2] (6-30-81)

L

LFE Environmental Analysis Laboratory, Richmond, CA
Lake Ontario Environmental Laboratory, Oswego, NY
Langan Engineering Associates, Clifton, NJ
Langford & Meredith Laboratories, Division of The Analysts, Inc., New Orleans, LA
Larsen, Herluf T., Enola, PA
La Salle County Farm Bureau, Soil Testing Laboratory, Ottawa, IL
Law Engineering Testing Co., Atlanta, GA[1,2] (6-30-78)
Law Engineering Testing Co., Birmingham, AL[2] (4-30-78)
Law Engineering Testing Co., Charlotte, NC[2] (5-31-78)
Law Engineering Testing Co., Houston, TX[2] (5-31-78)
Law Engineering Testing Co., Marietta, GA[2] (5-31-78)
Law Engineering Testing Co., McLean, VA[2] (6-30-79)
Law Engineering Testing Co., Tampa, FL[2] (5-31-78)
Layne-Western Co., Kansas City, MO
Layne-Western Co., Kirkwood, MO
Lederle Laboratories, Pearl River, NY[2] (6-30-80)
Lerch Brothers, Inc., Hibbing, MN[2] (6-30-80)
Leroy Crandall & Associates, Los Angeles, CA[2] (6-30-77)
Lewin, David W., Corp., Geotechnical Engineering, The Arcade, Cleveland, OH
Libby, McNeill, & Libby, Janesville, WI[2] (6-30-81)
Lilly, Eli, & Co., Greenfield, IN[2] (6-30-79)
Lilly, Eli, & Co., Lilly Research Laboratories, Indianapolis, IN[2] (6-30-80)
Lockwood Corp., Lionel Harris Laboratory, Mitchell, NE[2] (10-31-78)
Louisiana Department of Highways, Baton Rouge, LA
Louisiana State University, Sedberry, Joe E. Jr., Department of Agronomy, Soil Testing Laboratory, Baton Rouge, LA[2] (6-30-80)
Louisiana State University, (Caldwell, Dr. A. G.) Department of Agronomy, Baton Rouge, LA[2] (6-30-81)
Louisiana State University, Coastal Studies Institute, Baton Rouge, LA
Louisiana State University, New Orleans, LA
Lowney/Kaldveer Associates, Palo Alto, CA
Lubbock Labs, Lubbock, TX

M

M & T Chemicals, Inc., Rahway, NJ
Maine State Highway Commission, Bangor, ME
Maine, University of, Orono, ME
Manchester College, Biology Department, North Manchester, IN
Mapco, Inc., Indiana Point Division, Athens, IL
Marathon Oil Co., Findley, OH[2] (6-30-77)
Marathon Oil Co., Littleton, CO[2] (6-30-77)
Maryland, University of, Department of Microbiology, College Park, MD[2] (5-31-78)
Mason-Johnston & Associates, Inc., Dallas, TX[2] (6-30-80)
Massachusetts Department of Public Works, Wellesley Hills, MA
Massachusetts Institute of Technology, Soil Mechanics Division, Cambridge, MA
Massachusetts, University of, Department of Anthropology, Amherst, MA[2] (10-31-77)
Massachusetts, University of, Department of Plant and Soil Sciences, Amherst, MA
McCallum Inspection Co., Chesapeake, VA[1]
McClelland Engineers, Clayton, MO
McClelland Engineers, Inc., Houston, TX[2] (6-30-79)
McGauthy, Marshall, and McMillian, Norfolk, VA
Memphis State University, Department of Biology, Memphis, TN
Memphis State University, Department of Civil Engineering, Memphis, TN
Merck Institute for Therapeutic Research, Rahway, NJ[2] (6-30-78)
Merck & Co., Inc., Agri Chemical Development, Rahway, NJ
Miami, University of, Department of Microbiology, Miami FL[2] (6-30-77)
Miami, University of, Institute of Marine Science, Miami Beach, FL[2] (8-31-78)
Michigan Department of Public Health, Bureau of Laboratories, Division of Antibiotics and Fermentation, Lansing, MI[2] (6-30-78)
Michigan State University, Department of Botany and Plant Pathology, East Lansing, MI[2] (6-30-77)
Michigan State University, Crop and Soil Science Department, East Lansing, MI[2] (6-30-81)
Michigan State University, Soil Testing Laboratory, East Lansing, MI
Michigan, University of, Botany Department, Ann Arbor, MI[2] (6-30-79)
Michigan, University of, Department of Geology and Mineralogy, Ann Arbor, MI[2] (6-30-81)
Michigan, University of, Department of Zoology, Ann Arbor, MI[2] (6-30-77)
Michigan, University of, Ethnobotanical Laboratory, Ann Arbor, MI[2] (10-31-78)
Michigan Testing Engineers, Inc., Michigan Drilling Division, Detroit, MI
Midwest Research Institute, Kansas City, MO
Midwest Soil Testing Service, Danforth, IL
Mier, Ezra, Raleigh, NC
Miles Laboratories, Inc., Marschall Division, Elkhart, IN[2] (6-30-77)
Miles Laboratories, Inc., Miles Research Division, West Haven, CT[2] (6-30-77)
Milwaukee, City of, Sewage Commission, Milwaukee, WI
Minnesota Department of Highways, Office of Materials, St. Paul, MN
Minnesota Mining and Manufacturing Co., Agrichemical Laboratories, St. Paul, MN[2] (4-30-78)
Minnesota, University of, Department of Geology & Geophysics, Minneapolis, MN[2] (6-30-80)
Minnesota, University of, Department of Plant Pathology, St. Paul, MN[2] (6-30-80)
Minnesota, University of, Department of Soil Science, St. Paul, MN[2] (6-30-80)
Minnesota, University of, Department of Zoology, Minneapolis, MN[2] (6-30-81)
Mississippi State University, State College, MS
Mississippi, University of, University, MS
Missouri Highway Commission, Jefferson City, MO
Missouri, University of, Department of Agronomy, Columbia, MO[2] (6-30-78)
Missouri, University of, Department of Anthropology, Columbia, MO[2] (6-30-81)
Missouri, University of, Department of Food Sciences and Nutrition, Columbia, MO
Mobil Chemical Co., Central Research Lab., Edison, NJ[2] (7-31-78)
Monsanto Co., Agricultural Division, St. Louis, MO[2] (6-30-78)
Montana, University of, Department of Plant and Soil Science, Bozeman, MT[2] (6-30-81)
Moore, George, Columbus, OH
Moran, Douglas E., Tustin, CA
Morse Laboratories, Sacramento, CA
Mountain States Research and Development, Tucson, AZ[2] (6-30-80)
Mueser, Rutledge, Wentworth, and Johnston, New York, NY[2] (6-30-80)

N

Na-Churs Plant Food Co., Forrest City, AR
Na-Churs Plant Food Co., Marion, OH[2] (6-30-80)
Na-Churs, Red Oak, IA[2] (6-30-77)
National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA[2] (4-30-79)
National Bulk Carriers, Inc., New York, NY
National Laboratories, Evansville, IN
National Soil Services, Inc., Dallas, TX
National Soil Services, Inc., Houston, TX[2] (6-30-77)
National Spectographic, Division of Shiller Industries, Warrenville Heights, OH
Natural Resources Laboratory, Golden, CO
Naval Undersea Center, San Diego, CA[2] (11-30-78)
Nebraska Department of Roads, Soil Testing Laboratory, Lincoln, NE
Nebraska, University of, Department of Agronomy, Keim Hall, Lincoln, NE[2] (6-30-78)
Nebraska, University of, Department of Agronomy, Wheat Studies Laboratory, Lincoln, NE[2] (10-30-77)
Nelson Laboratories, Stockton, CA[2] (6-30-80)
Nevada State Highway Department Laboratory, Carson City, NV
New Jersey Department of Transportation, Trenton, NJ
New Mexico State Highway Department, Santa Fe, NM
New Mexico State University, Soil and Water Testing Laboratory, Las Cruces, NM[2] (5-31-78)
New York Botanical Garden, Cryptogamic Herbarium, Bronx, NY[2] (3-31-78)
New York State, University of, College of Environmental Sciences & Forestry, Dept. of Forest Botany & Pathology, Syracuse, NY[2] (6-30-80)

Niagara Chemical Division of FMC Corp., Middleport, NY
NL Industries, Inc., Baroid Division, Channelview, TX [2] (3-31-78)
NL Industries, Inc., Baroid Division, Malvern, AR [2] (3-31-78)
North American Exploration, Inc., Charlottesville, VA [2] (6-30-78)
North Carolina Department of Agriculture, Raleigh, NC
North Carolina Department of Geology, Raleigh, NC
North Carolina State University, Department of Plant Pathology, Raleigh, NC [2] (8-31-78)
North Carolina State University, Department of Soil Science, International Soil Testing Project, Raleigh, NC [3] (6-30-80)
North Carolina, University of, Department of Botany, Chapel Hill, NC (Dr. J. N. Couch)
North Carolina, University of, Department of Botany, Chapel Hill, NC (Dr. N. G. Miller) [3] (6-30-80)
North Carolina, University of, Department of Botany, Chapel Hill, NC (Dr. Edward G. Barry)
North Dakota State Highway Department, State Highway Department Laboratory, Bismarck, ND
Norvell Plowman Laboratories, Little Rock, AR
Nu-ag Laboratory, Inc., Rochelle, IL
NUS Corporation, Rockville, MD [2] (9-30-78)
Nutting, H. C., Co., Cincinnati, OH

O

Oak Ridge National Laboratory, Environmental Sciences Division, Oak Ridge, TN [2] (3-31-78)
Ohio Florist Association, Columbus, OH
Ohio State University, Botany Department, Columbus, OH [3] (6-30-81)
Ohio State University, Department of Agronomy, Columbus, OH [2] (6-30-80)
Ohio State University, Department of Pathology, Columbus, OH
Ohio State University, Institute of Polar Studies, Columbus, OH [3] (6-30-81)
Ohio State University, Ohio Extension Service, Columbus, OH
Ohio State University, Soil Testing Laboratory, Coumbus, OH [2] (6-30-78)
Oklahoma State Highway Department, Materials Division, Oklahoma City, OK
Oklahoma State University, Stillwater, OK
Oklahoma State University, Department of Agronomy, Stillwater, OK
Oklahoma State University, School of Civil Engineering, Stillwater, OK
Oklahoma Soil Testing Laboratories, Oklahoma City, OK
Oklahoma, University of, School of Civil Engineering and Environmental Science, Norman, OK
Old Dominion University, Norfolk, VA
Olson-Dykeman Laboratories, Freeport, IL
Onondaga Soil Testing, Inc., East Syracuse, NY
Oregon State Highway Department, Salem, OR [1]
Osborne Laboratories, Inc., Santa Fe Springs, CA
Owens-Illinois Inc., Technical Center, Toledo, OH [2] (4-30-78)

P

Pacific Spectro Chemical Laboratory, Los Angeles, CA
Pan American Laboratories, Brownsville, TX [3] (6-30-80)
Parke, Davis, & Co. (Joseph Campau at the River), Detroit, MI
Parke, Davis, & Co., Res. & Med. Affairs, Biol. R. & D., Detroit, MI [3] (6-30-81)
Parrill, Irwin H., Edwardsville, IL
Pattison's Laboratories, Inc., Harlingen, TX [3] (6-30-80)
Patzig Testing Laboratories, Inc., Des Moines, IA
Penniman & Browne, Inc., Baltimore, MD
Pennsylvania State University, Department of Agronomy, University Park, PA [3] (6-30-81)
Pennsylvania, University of, Dept. of Geology, Philadelphia, PA [3] (6-30-78)
Pennsylvania, University of, Department of Physics, Philadelphia, PA [3] (6-30-77)
Perry Laboratory, Los Gatos, CA [3] (6-30-81)
Peters, Robert B., Co., Allentown, PA
Pfeiffer Foundation, Inc., Threefold Farm, Spring Valley, NY [3] (6-30-78)
Pfizer, Charles, & Co., Inc., Groton, CT [3] (6-30-81)
Phifer, Allen, Thorofare, NJ
Phillips Petroleum Co., Phillips Research Center, Bartlesville, OK [2] (8-31-78)
Pickett, Ray, and Silver, St. Peters, MO
Pioneer Testing Laboratory, Inc., Redlands, CA
Pittsburgh Testing Laboratory, Pittsburgh, PA [1]
Pittsburgh, University of, Department of Biology, Pittsburgh, PA [2] (6-30-81)
Plains Laboratory, Lubbock, TX
Pope, W. I., Mobile, AL
Portland State College, Department of Biology, Portland, OR [3] (6-30-77)
Purdue University, Department of Agronomy, Lafayette, IN [3] (6-30-79)
Purdue University, Department of Entomology, Lafayette, IN [2] (7-31-78)

Q

Queens College, Fluhing, NY

R

Raamot Associates, Corona, NY [2] (9-30-77)
Raba and Associates Consulting Engineers, Inc., San Antonio, TX [2] (1-31-78)
Raba Soil Testing Laboratory, San Antonio, TX
Rabe, Fred N., Engineering, Inc., Fresno, CA
Raymond International, St. Louis, MO
Reitz and Jens, Clayton, MO
Resources International, Fresno, CA [3] (6-30-79)
Richfield Oil Corp., Long Beach, CA
Ringel and Associates, Chico, CA
Rochester, University of, Department of Biology, Rochester, NY [3] (6-30-79)
Rocky Mountain Geochemical Corp., Midvale, UT
Rocky Mountain Geochemical Corp., Prescott, AZ
Rocky Mountain Geochemical Corp., West Jordan, UT [3] (6-30-80)
Rocky Mountain Technology, Inc., Golden, CO
Rosner-Hixon Laboratories, Chicago, IL
Royster Co., Norfolk, VA [1]
Rummel, Klepper, & Kahl, Lansdowne, MD
Rutgers, the State University, Department of Microbiology, New Brunswick, NJ [2] (6-30-81)
Rutgers, the State University, Department of Soils and Crops, New Brunswick, NJ [2] (6-30-81)
Rutgers, the State University, Soils Extension Specialist, New Brunswick, NJ

S

San Fernando Valley State College, Department of Biology, Northridge, CA
Sayre & Sutherland, Inc., Richmond, VA
Schering Corp., Bloomfield, NJ [3] (6-30-79)
Scientific Agricultural Services, Visalia, CA [2] (9-30-77)
Scientific Associates, Inc., St. Louis, MO [3] (6-30-78)
Scott, O. M., & Sons, Seed Co., Marysville, OH
Scottland Soil Laboratory, Chrisman, IL
Seabrook Farms, Seabrook, NJ
Shankman Laboratories, Los Angeles, CA
Shannon & Wilson, Inc., Burlingame, CA
Shannon & Wilson, Inc., Portland, OR
Shannon & Wilson, Inc., Seattle, WA [3] (6-30-81)
Shannon & Wilson, Inc., St. Louis, MO
Shell Development Co., Biological Sciences Research Center, Modesto, CA
Shilstone Testing Laboratory, Inc., Baton Rouge, LA
Shilstone Testing Laboratory, Inc., Houston, TX
Shilstone Testing Laboratory, Inc., Lafayette, LA
Shilstone Testing Laboratories, Inc., Monroe, LA
Shilstone Testing Laboratory, Inc., New Orleans, LA
Skyline Laboratories, Inc., Wheat Ridge, CO [3] (6-30-77)
Smith-Douglas, Chesapeake, VA
Smith-Douglas Co., Division of Borden Inc., Columbus, OH
Smith, Kline, & French Laboratories, Swedeland, PA [2] (6-30-79)
Snohomish Farm Veterinary Service, Snohomish, WA
Soil and Materials Engineers, Detroit, MI
Soil and Plant Laboratory, Inc., Santa Ana, CA [3] (6-30-77)
Soil and Plant Laboratory, Inc., Santa Clara, CA [3] (6-30-80)
Soil Consultants, Inc., Charleston, SC
Soil Consultants, Inc., Merrifield, VA
Soil Control Laboratory, Watsonville, CA
Soil Engineering Services, Decatur, IL
Soil Exploration Co., St. Paul, MN
Soil Services, Inc., Mountain View, CA [1] (6-30-78)
Soil Systems, Inc., Marietta, GA
Soil Test, Moorestown, NJ
Soil Testing, Burlington, WA
Soil Testing Engineers, Inc., Baton Rouge, LA [2] (11-30-77)
Soil Testing Services, Inc., Northbrook, IL [3] (6-30-81)
South Alabama, University of, Department of Geology, Mobile, AL [2] (6-30-78)
South Carolina, University of, Department of Engineering, Columbia, SC
South Carolina, University of, Department of Geology, International Programs, Columbia, SC [3] (2-28-77)
South Dakota State Highway Department, Materials and Testing Department, Pierre, SD
Southern California Testing Lab., Inc., San Diego, CA [2] (5-31-78)
Southern Laboratories, Mobile, AL
Southern Methodist University, Department of Anthropology, Dallas, TX [2] (6-30-81)
Southern Technical Services, Inc., Jackson, MS
Southern Testing and Research Laboratories, Wilson, NC
Southern Testing Laboratory, Montgomery, AL
Southern Turf Nurseries, Tifton, GA [3] (6-30-79)
Southwestern Assayers & Chemists, Inc., Tucson, AZ [3] (6-30-79)
Southwestern Irrigation Field Station, Brawley, CA
Southwestern Laboratories, Inc., Houston, TX [1]
Southwestern Laboratories, Midland, TX [3] (6-30-77)
Spectograph Laboratory, Hayden, CO
Squibb, E. R., & Sons, Dept. of Microbiology, Lawrenceville, NJ [3] (6-30-79)
Stabilization Chemicals, Milpitas, CA [3] (6-30-77)
Standard Laboratories, Goodfield, IL
Stanford Research Institute, Menlo Park, CA [3] (6-30-77)
Stanford University, Department of Civil Engineering, Stanford, CA [3] (12-31-78)
State University of New York at Buffalo, Department of Civil Engineering, Buffalo, NY [2] (6-30-80)
Stauffer Chemical Co., Mountain View, CA
Stauffer Chemical Co., Richmond, CA
Stilwell & Gladding, Inc., New York, NY
Stoner Laboratories, Inc., Santa Clara, CA [3] (6-30-77)

Strawinsky Laboratory, Long Beach, CA
Suerdrup and Parcel & Associates, Inc., St. Louis, MO [3] (6-30-77)
Superior Oil Company, Geophysical Laboratory, Houston, TX [3] (6-30-79)
Syracuse University Research Corp., Syracuse, NY

T

T-N-T Chemical Co., Inc., Five Points, CA
Tennent & Associates, Memphis, TN
Tennessee, University of, Department of Geological Sciences, Knoxville, TN [3] (3-31-78)
Tennessee, University of, Soil Testing Laboratory, Nashville, TN
Tennessee Valley Authority, Materials Engineering Laboratory, Knoxville, TN
Terrasearch, Inc., San Jose, CA
Terratech, Inc., San Jose, CA
Test, Inc., Memphis, TN
Testing Engineers Inc., Oakland, CA
Testing Engineers Inc., Santa Clara, CA
Testing Service Corp., Wheaton, IL
Tetco, Trinity Engineering Testing Corp., Austin, TX
Tetco, Trinity Engineering Testing Corp., Corpus Christi, TX
Texas A & M University, Department of Sociology and Anthropology, College Station, TX [3] (6-30-80)
Texas A & M University, Department of Soil and Crop Sciences, Texas Agricultural Experiment Station, College Station, TX [3] (6-30-80)
Texas A & M University, Soil Testing Laboratory, Agricultural Extension Service and Experiment Station, College Station, TX [3] (6-30-81)
Texas Highway Department, Materials and Tests Engineering Division, Austin, TX
Texas Soil Laboratory, McAllen, TX [3] (6-30-78)
Texas Testing Laboratories, Dallas, TX
Texas, University of, (Austin) Department of Botany, Austin, TX [3] (6-30-77)
Texas, University of, Radiocarbon Laboratory, Balcones Research Center, Austin, TX [3] (6-30-79)
Thompson, Vester J., Jr., Inc., Mobile, AL
Three Gee Dee, Pembroke, FL
Tidewater Testing Laboratory, Inc., Virginia Beach, VA
Tippetts-Abbett-McCarthy-Stratton, New York, NY [3] (6-30-81)
Trinity Testing Laboratories, Inc., Corpus Christi, TX
Triple S Laboratory, Inc., Loveland, CO [3] (6-30-79)
Truesdale Laboratories, Inc., Los Angeles, CA
Tulane University, Department of Chemistry, New Orleans, LA [3] (6-30-77)
Tulane University, Department of Geology, New Orleans, LA [3] (5-31-78)
Tulsa, University of, Department of Geology, Tulsa, OK
Twin City Testing and Engineering Laboratory, Inc., St. Paul, MN
Twining Laboratories, Inc., Fresno, CA [3] (6-30-79)
Twining Laboratory of Southern California, Long Beach, CA

U

U.S. Agricultural Consultants Laboratories, San Gabriel, CA
U.S. Borax Research Corp., Anaheim, CA
U.S. Plant, Soil, and Nutrition Laboratory, Ithaca, NY
U.S. Sugar Corporation, Research Department, Clewiston, FL
U.S. Terrestrial Plants Laboratory, Hanover, NH
U.S. Testing Co., Inc., Los Angeles, CA
U.S. Testing Co., Inc., Hoboken, NJ
U.S. Testing Co., Memphis Laboratory, Memphis, TN [3] (6-30-79)
U.S. Testing Laboratory, Richland, WA
USS Agri-Chemicals, Belmond, IA
USS Agri-Chemicals, Decatur, GA
Union Carbide Corp., Grand Junction, CO [3] (6-30-80)
Union Carbide Corp., Niagara Falls, NY [3] (6-30-80)
Union Carbide Corp., South Charleston, WV
Union Oil Company of California, Brea, CA
United Rice Growers and Millers, Maxwell, CA
Upjohn Co., Pharmaceutical Division, Kalamazoo, MI [3] (6-30-80)
Urban Testing and Construction Engineers, Inc., Atlanta, GA
Utah State University, College of Engineering, Agriculture and Irrigation Engineering, Logan, UT
Utah State University, Department of Biology, Logan, UT [3] (6-30-79)
Utah State University, Soil Laboratory, Logan, UT [3] (6-30-81)
Utah State University, Soil and Water Conservation Research, Mechanic Arts, Logan, UT
Utah State University, Crops Research Laboratory, Logan, UT
Utah, University of, Department of Anthropology, Salt Lake City, UT [3] (6-30-81)

U.S. GOVERNMENT

U.S. Department of Agriculture, APHIS, Environmental Quality Laboratory, Gulfport, MS
U.S. Department of Agriculture, APHIS, Westhampton Golden Nematode Facility Riverhead, NY
U.S. Department of Agriculture, APHIS, Gypsy Moth Laboratory, Otis AFB, MA
U.S. Department of Agriculture, APHIS, Southern Methods Development Laboratory, Gulfport, MS
U.S. Department of Agriculture, ARS, Washington, DC [1]
U.S. Department of Agriculture, ARS, Fruit, Vegetable, Soil, and Water Laboratory, Nematology Investigation, Weslaco, TX [3] (6-30-77)
U.S. Department of Agriculture, ARS, Southern Piedmont Conservation Research Laboratory, Watkinsville, GA [3] (6-30-78)
U.S. Department of Agriculture, ARS, U.S. Water Conservation Lab, Phoenix, AZ [3] (6-30-79)
U.S. Department of Agriculture, FS, Washington, DC [1]
U.S. Department of Agriculture, FS, Forest Products Laboratory, Madison, WI [3] (6-30-77)
U.S. Department of Agriculture, SCS, Washington, DC [1]
U.S. Department of Agriculture, SCS, Engineering and Watershed Planning Unit, Portland, OR [3] (6-30-77)
U.S. Departmentof Agriculture, SCS, Soil Survey Investigations Unit, Lincoln, NE [3] (6-30-78)
U.S. Department of Agriculture, SCS, Soil Survey Investigations Unit, Riverside, CA [3] (6-30-77)
U.S. Department of Commerce, National Bureau of Standards, Health Physics Section, Gaithersburg, MD [3] (6-30-80)
U.S. Department of Defense, U.S. Air Force, AFCES/DL Civil Engineering Center, Tyndall AFB, Panama City, FL [3] (6-30-78)
U.S. Department of Defense, U.S. Air Force, Environmental Health Laboratory, Kelly AFB, TX [3] (10-31-78)
U.S. Department of Defense, U.S. Air Force, Radiological Health Laboratory, Wright-Patterson AFB, OH [3] (6-30-81)
U.S. Department of Defense, U.S. Air Force, Air Force Weapons Laboratory, Kirkland AFB, Albuquerque, NM
U.S. Department of Defense, U.S. Air Force, Technical Operations Squadron, McClellan AFB, CA [3] (5-31-78)
U.S. Department of Defense, U.S. Army, Cold Regions Research and Engineering Laboratory, Hanover, NH [3] (9-30-78)
U.S. Department of Defense, U.S. Army Corps of Engineers, Washington, DC [1]
U.S. Department of Defense, U.S. Army Corps of Engineers, South Atlantic Division Laboratory, Marietta, GA [3] (6-30-77)
U.S. Department of Defense, U.S. Army Corps of Engineers, Engineer Waterways Experiment Station, Vicksburg, MS [3] (4-30-78)
U.S. Department of Defense, U.S. Army, Electronics Command, Institute for Exploratory Research, Fort Monmouth, NJ
U.S. Department of Defense, U.S. Army Environmental Hygiene Agency, Aberdeen Proving Ground, MD [3] (6-30-80)
U.S. Department of Defense, U.S. Army Facility Engineering Support Agency, Engineering Division, Nuclear Branch, Fort Belvoir, VA [3] (6-30-79)
U.S. Department of Defense, U.S. Army Mobile Equipment Research Development Center, Countermine/Counter Intrusion Dept., Fort Belvoir, VA [3] (6-30-79)
U.S. Department of Defense, U.S. Army South Pacific Corps of Engineers, Engineering Division Laboratory, Sausalito, CA [3] (6-30-78)
U.S. Department of Defense, U.S. Navy, Naval Facilities Engineering Command, Soil Mechanics and Paving Branch, Norfolk, VA
U.S. Department of Health, Education, and Welfare, National Communicable Disease Center, Mycology Branch, Atlanta, GA [3] (6-30-78)
U.S. Department of the Interior, Bureau of Indian Affairs, Soil Testing Laboratory, Gallup, NM
U.S. Department of the Interior, Engineering and Research Center, Bureau of Reclamation, Denver, CO [3] (12-31-77)
U.S. Department of the Interior, Geological Survey, Washington, DC [1]
U.S. Department of the Interior, U.S. Geological Survey, Branch of Analytical Laboratories, Reston, VA [3] (5-31-78)
U.S. Department of the Interior, Geological Survey, Branch of Exploration Research, Denver, CO
U.S. Department of the Interior, Geological Survey, Denver, CO [3] (6-30-78)
U.S. Department of the Interior, U.S. Geological Survey, Hydrologic Laboratory, Lakewood, CO [3] (3-31-78)
U.S. Department of the Interior, U.S. Geological Survey, Rock Magnetics Laboratory, Menlo Park, CA [3] (12-31-76)
U.S. Department of the Interior, National Park Service, Ecological Services Division, Bay St. Louis, MS
U.S. Department of Transportation, Federal Highway Administration, Washington, D.C. [3]
U.S. Department of Transportation, Federal Highway Administration, Vancouver, WA [3] (6-30-77)
U.S. Department of Transportation, Federal Highway Administration, Sevier County Industrial Park, Sevierville, TN
U.S. Environmental Protection Agency, Pesticides Monitoring Laboratory, Bay St. Louis, MS
U.S. Environmental Protection Agency, Robert Kerr Laboratories, Ada, OK

V

Valentine, James H., Lubbock, TX [3] (6-30-77)
Valmont Industries, Inc., Valley, NE
Value Engineering Company, Alexandria, VA
Velsicol Chemical Corp., Chicago, IL [3] (6-30-80)
Vermilion Co., Farm Bureau, Danville, IL
Vermont, University of, Burlington, VT
Virginia Department of Highways, Richmond, VA
Virginia Polytechnic Institute, Blacksburg, VA
Virginia Polytechnic Institute and State University, Department of Agronomy, Soil and Plant Analysis, Blacksburg, VA [3] (6-30-81)
Virginia Polytechnic Institute and State University, Biology Department, Blacksburg, VA [3] (9-30-77)
Virginia Truck Experiment Station, Painter, VA
Virginia Truck Experiment Station, Virginia Beach, VA

Virginia, University of, Department of Environmental Sciences, Charlottesville, VA[3] (6-30-77)
Vistron Company, Lima, OH

W

Waddoups, Marr and Associates, Inc., Kennewick, WA
Wahler, W. A., & Associates, Palo Alto, CA[3] (4-30-79)
Walker Laboratories, Columbia, SC
Walker Laboratories, Florence, SC
Ward Engineering Testing, Inc., Atlanta, GA
Ward Lind Engineers, Inc., Jackson, MS
Warf Institute, Inc., Madison, WI
Washington, University of, Center for the Biology of Natural Systems, St. Louis, MO[3] (6-30-81)
Washington, University of, College of Forest Resources, Seattle, WA[3] (6-30-81)
Washington, University of, Department of Anthropology, St. Louis, MO[3] (12-31-77)
Washington, University of, Department of Geological Sciences, Seattle, WA[3] (6-30-77)
Washington, University of, Laboratory of Radiation Ecology, Seattle, WA[2] (6-30-80)
Weber State College, Department of Microbiology, Ogden, UT
Western Agricultural Laboratory, Redlands, CA[2] (12-31-79)
Westfall Engineers, Saratoga, CA
West Virginia Department of Highways, Charleston, WV
West Virginia, University of, Soil Testing Laboratory, Morgantown, WV
Westvaco Corp., Laurel Research Laboratory, Laurel, MD
Wharton County Junior College, Soil Testing Laboratory, Wharton, TX
Whitaker Laboratories, Inc., Savannah, GA
Whittaker Corp., San Diego, CA
William and Mary, College of, Williamsburg, VA
Williams, E. V., Co., Inc., Virginia Beach, VA
Winter, Ed, Metairie, LA[3] (9-30-77)
Wisconsin Department of Transportation, Madison, WI
Wisconsin, University of, Department of Anthropology, Milwaukee, WI[2] (6-30-79)
Wisconsin, University of, Department of Bacteriology, Madison, WI[2] (6-30-81)
Wisconsin, University of, Department of Sociology/Anthropology, La Crosse, WI[2] (8-31-78)
Wisconsin, University of, Department of Soil Science, Madison, WI[3] (6-30-79)
Wisconsin, University of, Department of Geography, Milwaukee, WI[2] (6-30-77)
Wolf's, Dr., Agricultural Laboratories, Fort Lauderdale, FL[3] (6-30-80)
Woodard Research Corp., Herndon, VA
Woodson-Tenent Laboratories, Memphis, TN[3] (6-30-80)
Woodward-Clyde Consultants, San Francisco, CA[1]
Woodward-Clyde Consultants, Clifton, NJ[3] (6-30-81)
Woodward-Clyde Consultants, Denver, CO[3] (6-30-77)
Woodward-Clyde Consultants, Plymouth Meeting, PA[3] (6-30-78)
Woodward-Clyde Consultants, San Diego, CA[3] (6-30-80)
Woodward-Clyde Consultants, Houston, TX[3] (6-30-78)
Woodville Lime Products, Woodville, OH
Wyoming, University of, Department of Botany, Laramie, WY[3] (6-30-81)

Y

Yakima Testing Laboratory, Yakima, WA[3] (6-30-79)
Yale University, Department of Anthropology, New Haven, CT[2] (11-30-78)
Yale University, Department of Geology & Geophysics, New Haven, CT[2] (6-30-78)
Yale University, Greeley Laboratories, New Haven, CT[3] (6-30-77)
Yeshiva University, New York, NY
Yule, Jordan, and Associates, Camp Hill, PA

Z

Zeff Associates, Inc., Denver, CO
Zoecon Corp., Palo Alto, CA

Programs has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 17th day of December 1976.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.76-37689 Filed 12-27-76;8:45 am]

FOOTNOTES

[1] Approval includes all branch laboratories in conterminous United States.

[2] Approved to receive soil samples pursuant to Subpart—Movement of Soil, Stone, and Quarry Products (7 CFR 330.300 et seq.) only.

[3] Approved to receive soil samples pursuant to Subpart—Movement of Soil, Stone, and Quarry Products (7 CFR 330.300 et seq.) and pursuant to sections 301.48-3, 301.80-3, 301.81-3, and 301.85-3, of the Japanese beetle, witchweed, imported fire ant, and golden nematode regulations (7 CFR 301.48-3, 301.80-3, 301.81-3, 301.85-3).

NOTE.—All laboratories not designated by footnote 2 are approved to receive soil samples pursuant to sections 301.48-3, 301.80-3, 301.81-3, and 301.85-3, of the Japanese bettle, witchweed, imported fire ant, and golden nematode regulations (7 CFR 301.48-3, 301.80-3, 301.81-3, 301.85-3). A date after a name indicates when approval to receive soil samples pursuant to Subpart—Movement of Soil, Stone, and Quarry Products (7 CFR 330.300 et seq.) expires.

Farmers Home Administration

[Designation No. A415]

ARKANSAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Arkansas Counties as a result of various adverse weather conditions shown in the following chart:

ARKANSAS

(8 Counties)

Conway: *Drought* July 4–October 15, 1976; *cool temperatures* and *excessive rainfall* April 10–June 15, 1976.
Izard: *Drought* July 1, 1976–October 4, 1976.
Little River: *Drought* July 3, 1976–September 15, 1976.
Pope: *Wet spring* May 1–June 15, 1976; *drought* June 16–September 5, 1976.
Prairie: *Drought* July 4–September 15, 1976; *cold* and *wet weather* April 1–June 10, 1976.
Scott: *Cool spring* April 20–June 1, 1976; *drought* July 1–September 15, 1976.
St. Francis: *Drought* July 3, 1976–October 23, 1976.
Van Buren: *Drought* July 1, 1976–October 13, 1976.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor David H. Pryor that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 9, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 20th day of December, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76-37896 Filed 12-27-76;8:45 am]

[Designation No. A420]

IOWA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Iowa Counties as a result of various adverse weather conditions shown in the following chart:

IOWA

Audubon: *Drought* June 1, 1976–November 2, 1976; *hailstorm* and *high winds* June 12 and 13, 1976.
Cherokee: *Drought* July 1, 1976–August 31, 1976.
Chickasaw: *Drought* July 1, 1976–November 3, 1976.
Crawford: *Drought* June 1, 1976–September 16, 1976.
Dickinson: *Drought* June 18, 1976–November 2, 1976.
Howard: *Drought* June 15, 1976–October 23, 1976.
Sac: *Drought* July 15, 1976–September 10, 1976.
Winneshiek: *Drought* July 1, 1976–October 31, 1976.
Worth: *Drought* July 1, 1976–October 31, 1976.

Damages and losses to crops occurred as a result of the above disasters.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Robert D. Ray that such designation be made.

Applications for emergency loans must be received by this Department no later than February 11, 1977, for physical losses and September 13, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to

the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 20th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-37897 Filed 12-27-76;8:45 am]

[Designation No. A412]

MISSOURI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Missouri Counties as a result of various adverse weather conditions shown in the following chart:

MISSOURI COUNTIES

Bollinger: *Freeze and Frost* April 26–May 4, 1976. *Flooding* July 2–3, 1976. *Drought* July 19–August 31, 1976.
Carter: *Drought* June 1–August 31, 1976.
Howell: *Freeze* May 1, 1976. *Drought* May 1–October 20, 1976.
Iron: *Freeze* April 25 and May 2, 1976. *Drought* June 1–October 20, 1976.
Madison: *Freeze* May 4 and 5, 1976. *Drought* June 1–August 21, 1976.
Reynolds: *Frost* May 4, 5 and 26, 1976. *Drought* June 1–August 31, 1976.
Ripley: *Flood* June 23 and July 3, 1976. *Drought* July 15–September 30, 1976.
St. Francis: *Drought* June 1–August 31, 1976.
Vernon: *Frost* and Freeze April 26 and May 3, 1976.
Wayne: *Freeze* April 26 and May 14, 1976; *Flood* July 3, 1976. *Drought* July 4–September 30, 1976.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Christopher S. Bond that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 8, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 20th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-37898 Filed 12-27-76;8:45 am]

[Designation No. A418]

NORTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following North Dakota Counties as a result of drought from April 26 through November 1, 1976, in Kidder County; and drought from July 4 through October 4, 1976, in Stutsman County.

Kidder
Stutsman

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Arthur A. Link that such designation be made.

Applications for emergency loans must be received by this Department no later than February 14, 1977, for physical losses and September 14, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 20th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-37899 Filed 12-27-76;8:45 am]

Office of the Secretary

MEAT IMPORT LIMITATIONS

First Quarterly Estimates

Public Law 88–482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by Section 2(a) of the Act.

In accordance with the requirements of the Act, the following first quarterly estimates for 1977 are published.

1. The estimated quantity of such articles prescribed by Section 2(a) of the Act during the calendar year 1977 is 1,165.4 million pounds.

2. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1977 is less than 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Since the estimated quantity of imports does not equal or exceed 110 percent of the estimated quantity prescribed by Section 2(a) of the Act, limitations for the calendar year 1977 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled or frozen meat of goats and sheep (TSUS 106.20), are not authorized to be imposed pursuant to Pub. L. 88–482 at this time.

This estimate is based upon information provided by the Department of State that substantive agreement has been reached with major supplying countries to limit meat imports into the United States in 1977. Were it not for these voluntary arrangements with supplying countries, the estimate of imports would have exceeded 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Done at Washington, D.C., this 22nd day of December 1976.

JOHN A. KNEBEL,
Secretary.

[FR Doc.76-38047 Filed 12-27-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 29789, et al.; Order 76-12-119]

HOUSTON/NEW ORLEANS-YUCATAN ROUTE PROCEEDING

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of December, 1976.

By Order 76-9-80, September 15, 1976, the Board instituted two investigations: (1) the *Houston/New Orleans-Yucatan Route Proceeding*, Docket 29789, to determine the need for authorization of U.S.-flag service between Merida, Cozumel, and Cancun, Mexico, on the one hand, and Houston and New Orleans, on the other; and (2) the *Dallas/Fort Worth-Western Mexico Route Proceeding*, Docket 29790, to determine the need for authorization of U.S.-flag service between the terminal point Dallas/Fort Worth and the coterminal points Guadalajara, Puerto Vallarta, Mazatlan, La Paz, and San Jose del Cabo, Mexico. The Board consolidated in the *Yucatan* case applications of Braniff, Continental, Eastern, National, TXIA, and United, to the extent they conform with the scope of the investigation, and it consolidated in the *Western Mexico* case applications of American, Braniff, Delta, Ozark, and TXIA, to the extent they conform with the investigation in that proceeding. The order also granted the motions for a hearing filed in various dockets by several carriers, but denied the immediate hearing motions of Airwest in Docket 25799 and Western in Docket 25776 because these involved Mexican points which are not covered in the outstanding bilateral agreement between the United States and Mexico.

Petitions for reconsideration herein were filed by Braniff, which requests that further action in the proceedings be deferred until bilateral negotiations between the United States and Mexico have been concluded, and by Eastern, which

requests that scope of the investigations be expanded by including Atlanta as an additional U.S. coterminal point for service to and from the named Yucatan Peninsula points. Answers opposing Braniff's petition were filed by TXIA, United, and the Bureau of Operating Rights, while Eastern's petition was supported in an answer filed by the City of Atlanta and the Atlanta Chamber of Commerce and opposed in answers filed by TXIA, United, and the Bureau of Operating Rights. The instant order will deal only with the *Yucatan* proceeding, with respect to which a prehearing conference has already been conducted.

On consideration of the petitions and the responses thereto the Board has determined that reconsideration should be denied. Braniff has presented no new facts or arguments of which the Board was unaware when it issued Order 76–9–80 instituting this proceeding, and we believe that the public interest in U.S.-flag carrier service to the Yucatan should be explored now, rather than awaiting the conclusion of negotiations whose duration and outcome cannot be predicted. And rather than speculating about the addition of new routes in a forthcoming bilateral agreement, as Eastern would have us do, we think it preferable to proceed within the framework of the routes covered by the current agreement. Our intention to confine the proceeding to the issue of implementing bilateral rights already contained in the agreement is clear on the face of Order 76–9–80, and the while we have preserved flexibility over the *form* of the award so as best to promote the economic operations of the applicants, we do not intend to enlarge the scope of the case to encompass bilateral rights not presently existing. Moreover, while expanding the issues to include Atlanta service would undoubtedly involve a strong U.S. gateway to the Yucatan, such action could be expected to encourage applications for service to and from other potential major gateway cities, and the addition of conjectural bilateral route issues would unduly encumber the proceeding, thus postponing the possible implementation of existing bilateral rights.

The Board also wishes at this juncture to clarify its intention with respect to the scope of the issue concerning Pan American's authority over Route F of the bilateral agreement. Route F authorizes U.S.-flag service between New Orleans and Merida, and beyond to Central America and Panama and beyond. Pan American is the U.S. designated carrier, but is temporarily suspended from serving that route. Order 76–9–80 limited the investigation of the need for service on Route F to the need for New Orleans-Merida service without consideration of service beyond Merida, but stated that the proceeding included the issue "whether Pan American's authority over Route F should be suspended or deleted." It was not intended to include in this case the question of Pan American's beyond-Merida authority, and we shall reframe the issue so as to confine it to the New Orleans-Merida segment.

In addition, we note that Pan American is also certificated to serve Houston-Merida, which is part of Route R of the bilateral agreement (Houston-Merida, Cozumel, Punta Cancun), but the carrier does not now provide this service and has not been designated to do so. In the context of this case the question of suspending or deleting Pan American's Houston-Merida authority does not differ materially from the issue with respect to New Orleans-Merida.[1] Accordingly, to preserve maximum flexibility to the Board when it considers the Route R markets, we shall include in this proceeding the issue whether Pan American's authority to provide service between Houston and Merida should be suspended or deleted.

Finally, in response to the Board's order of investigation, applications and motions to consolidate have been filed by Eastern, Northwest, Southern, and TXIA in Dockets 29887, 29890, 29868, and 29889, respectively. We shall grant all of these motions, to the extent they request consolidation of applications for authorization within the scope of the proceeding in Docket 29789.

Accordingly, it is ordered That: 1. The petitions for reconsideration of Order 76–9–80 of Braniff Airways and Eastern Air Lines insofar as they concern the investigation in Docket 29789 be, and they hereby are, denied;

2. Ordering paragraph 3 of Order 76–9–80 be, and it hereby is, amended by revising subparagraph (d) and adding a new subparagraph (e), to read as follows:

(d) Should Pan American's authority to provide service between New Orleans and Merida be suspended or deleted?

(e) Should Pan American's authority to provide service between Houston and Merida be suspended or deleted;

3. The applications of Eastern Air Lines (Docket 29887), Northwest Airlines (Docket 29890), Southern Airways (Docket 29868), and Texas International Airlines (Docket 29889), to the extent they conform with the investigation instituted in ordering paragraph 1 of Order 76–9–80, be, and they hereby are, consolidated in Docket 29789; and

4. This order shall be served on the parties named in ordering paragraph 17 of Order 76–9–80, and in addition on Northwest Airlines, Southern Airways, the City of Harlingen, Texas, and Chamber of Commerce of Harlingen, Texas, and the Las Vegas Parties.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc.76-38043 Filed 12-27-76;8:45 am]

[1] Houston and New Orleans are coterminals on the same segment of Pan American's certificate for Route 136.

[Docket 29323; Order 76-12-121]

INTERNATIONAL AIR SERVICE CO., LTD.

Order Setting Matter for Hearing

In the matter of the application of International Air Service Co., Ltd., for exemption or approval of acquisition of control of Aloha Airlines, Inc., by open market purchases and for exemption or approval of interlocking relationships.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of December, 1976.

International Air Service Company, Ltd. (IASCO), has filed an application requesting approval or exemption of the acquisition by IASCO of control of Aloha Airlines, Inc. (Aloha), pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act); and approval or exemption of any interlocking relationships thereafter created, pursuant to Parts 251 and 287.3(e) of the Board's Economic Regulations.

IASCO proposes to acquire control of Aloha by purchasing shares of Aloha common stock from time to time on the Pacific or Honolulu Stock Exchanges at such market prices as shall prevail at the time of such purchases; by acquiring stock through private negotiations with one or more shareholders of Aloha; or by a combination of these methods.[1] The applicant states that its present intention is to purchase up to 50 percent of the outstanding shares of Aloha's common stock,[2] but there is no timetable for achieving this ownership level. Moreover, IASCO does not intend to limit its ownership if circumstances warrant the purchase of shares in excess of that level.[3]

IASCO is a California corporation engaged in the training and provision of flight crews under contract to foreign airlines. In addition, IASCO itself, or through one or more of its wholly owned subsidiaries, is engaged, *inter alia*, in fixed base and air taxi operations, aircraft leasing, maintenance, flight crew training for personnel of foreign airlines, and the sale of new and used aircraft. IASCO also operates a flight training center and maintenance facility at Napa County (California) Airport; and engages in fixed base operations at San Jose Airport, San Jose, California. The San Jose facility provides air taxi and air charter services pursuant to Part 298 of the Board's Economic Regulations.

If it is successful in obtaining control of Aloha, IASCO intends to cause certain interlocking relationships within the purview of section 409 of the Act.

In support of its application, IASCO states that its acquisition of control of Aloha would be consistent with the public interest; would be beneficial to Aloha; and would not create a monopoly, restrain competition, or jeopardize any other air carrier not a party to the acquisition. IASCO further submits that the proposed acquisition does not present any conflicts of interest; that it activities are complementary to, and not in com-

[1] Aloha is a publicly held corporation whose shares are listed on the Pacific and Honolulu Stock Exchanges. There are approximately 19,000 Aloha stockholders with only one stockholder holding in excess of ten percent of its outstanding voting shares.

[2] IASCO presently owns or controls approximately three percent of the outstanding and issued common stock of Aloha.

[3] According to the applicant, it has considered and rejected the possibility of a public tender offer for Aloha shares, but reserves the right to amend its application if in the future it deems a public tender offer to be desirable.

petition with those of Aloha; that there is no risk that the activities of Aloha would be subordinated to those of other IASCO affiliates; and that the acquisition would strengthen Aloha and enhance its ability to compete. IASCO has filed a motion for immediate consideration of its application.

In response to the IASCO application, Aloha has filed a petition for leave to intervene and a statement of position. In support of its petition, the carrier states that a substantial portion of the assets and financial interests of Aloha could be affected by IASCO's proposal; that its interest cannot be adequately represented by any other party or by any other means; that it has a statutory right to participate as a party to this proceeding; and that IASCO's proposal raises important public interest questions which Aloha wishes to address at a hearing.

Upon consideration of the application in Docket 29323, it is concluded that Aloha is a direct air carrier; that IASCO, by reason of its air taxi operations, is an air carrier; that James C. Jack, Jr., is a person controlling an air carrier; and that IASCO by reason of its various other aeronautical activities is a person engaged in a phase of aeronautics, all within the meaning of section 408(a)(5) of the Act; and that the acquisition of control of Aloha by IASCO creates control and common control relationships which are subject to that section. Under the terms of the proviso to section 408(a)(5), the Board may exempt the acquisition of a noncertificated air carrier from the requirements of Board approval to the extent and for such periods as may be in the public interest. However, since the transaction involves the acquisition of a certificated air carrier, the applicant's request for an exemption will be denied.

We further conclude that the applicant's request for approval of the acquisition of control of Aloha requires consideration in a full evidentiary hearing. Aloha, disclosing a substantial interest in the proceeding, is presently requesting a hearing, and the transaction for which approval is sought raises complex issues of fact, law, and Board policy.

Accordingly, it is ordered that: 1. The application of International Air Service Company, Ltd. in Docketa 29323, be and it hereby is set for hearing before an administrative law judge of the Board at a time and place to be hereafter designated;

2. IASCO's motion for immediate consideration of its application be and it hereby is granted;

3. The petition of Aloha Airlines, Inc. for leave to intervene be and it hereby is granted;

4. To the extent not granted herein, all outstanding requests in 29323 be and they hereby are denied; and

5. Petitions for reconsideration of this order shall be filed within twenty (20) days of the date of adoption of this order and answers thereto shall be filed within ten (10) days thereafter.

This order shall be served on all parties of record and shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc.76-38046 Filed 12-27-76;8:45 am]

[Docket 27573; Agreement C.A.B. 26278; Order 76-12-93]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Cargo Rates

Issued under delegated authority December 15, 1976.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement would increase general commodity rates by 10 percent between South Africa and Botswana, Lesotho and Swaziland, which are within Traffic Conference 2 (Europe/Africa/Middle East) and are outside of air transportation. We will approve the agreement insofar as the rates established under this resolution are combinable with rates to/from the United States and thus have indirect application in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that Resolution 200 (Mail 74)552 which is incorporated in Agreement C.A.B. 26278 and which has indirect application in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act.

Accordingly, *It is ordered That:* Agreement C.A.B. 2678 be and hereby is approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-38044 Filed 12-27-76;8:45 am]

[Docket 24778; 28308; Order 76-12-112]

SOUTHERN AIRWAYS, INC. AND PIEDMONT AVIATION, INC.

Order Consolidating and Setting Applications for Hearing in Accordance With Subpart M Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of December 1976.

In the matter of the application of Southern Airways, Inc. for amendment of its certificate of public convenience and necessity, pursuant to Subpart M, to permit nonstop operations between Greenville/Spartanburg, on the one hand, and Washington, D.C., and New York/Newark, on the other; and the application of Piedmont Aviation, Inc. for amendment of its certificate of public convenience and necessity to permit nonstop operations between Greenville/Spartanburg, on the one hand, and Washington, D.C., and New York/Newark, on the other.

By Order 75-8-49, August 11, 1975, the Board set the application of Southern Airways for Greenville/Spartanburg-Washington/New York/Newark nonstop authority for further proceedings pursuant to the provisions of Subpart M of the Board's Rules of Practice.

Answers in support of Southern's application have been filed by the Greenville-Spartanburg Airport District and the Mobile parties.[1] Eastern Air Lines and Piedmont Aviation filed answers in opposition to Southern's application. Southern filed a consolidated reply to the answers of Eastern and Piedmont.

Piedmont also filed a motion to consolidate its application (Docket 28308) requesting nonstop authority between Greenville/Spartanburg, on the one hand, and Washington, D.C., and New York/Newark on the other, for hearing with Southern's application. Southern filed an answer in opposition to Piedmont's motion to consolidate and Eastern filed an answer in opposition to Piedmont's application. In addition, Delta Air Lines filed an answer to Piedmont's motion to consolidate, requesting certain pretrial restrictions as a condition to any award to Piedmont,[2] and a contingent motion for leave to intervene in the event that its proposed pretrial restrictions are not adopted. Piedmont filed a consolidated reply to the answers of Delta, Eastern, and Southern.[3]

Upon consideration of the pleadings and all the relevent facts, the Board has determined that there is a sufficient basis for setting Southern's application (Docket 24778) for hearing. We shall also consolidate Piedmont's application (Docket 28308) with Southern's.

We will deny Delta's request for the imposition of a pretrial restriction pre-

[1] City of Mobile, Alabama, and the Mobile Area Chamber of Commerce.

[2] Delta requests a restriction precluding one-stop service via Greenville/Spartanburg between Augusta, Georgia, and Columbia, South Carolina, on the one hand and Washington, D.C., and New York/Newark, on the other.

[3] Eastern has also filed a supplement to its previous answers, accompanied by a motion for leave to file an otherwise unauthorized document. We will grant the motion.

cluding Piedmont from operating one-stop service, via Greenville/Spartanburg, between Augusta, Georgia, and Columbia, South Carolina, on the one hand, and Washington, D.C., and New York/Newark, on the other. The imposition of such a pretrial restriction would limit the Board's flexibility to impose only those restrictions which are found necessary on the basis of an evidentiary record. Moreover, there appears to be no compelling reason why ordinary beyond-segment rights should be excluded in advance. If there is, in fact, a need for such a restriction, it can be shown at the hearing and the Board will be free to impose it. In light of our action denying Delta's request, we will grant that carrier's contingent motion for leave to intervene.

Finally, Southern and Piedmont have not submitted sufficient information for us to determine the environmental consequences of their applications. Therefore, we will require Southern and Piedmont to file the information set forth in Part 312 of the Board's Procedural Regulations within 30 days of the date of the adoption of this order.

Accordingly, it is ordered That: 1. The application of Southern Airways in Docket 24778, be and it hereby is set down for hearing before an administrative law judge of the Board at a time and place to be hereinafter designated, as the orderly administration of the Board's docket permits;

2. The motion of Piedmont Aviation to consolidate its application in Docket 28308 with Southern's application (Docket 24778) be and it hereby is granted;

3. The request of Delta Air Lines for a pretrial restriction be and it hereby is denied;

4. Delta Air Lines' contingent motion for leave to intervene be and it hereby is granted;

5. Eastern Air Lines' motion for leave to file an otherwise unauthorized document be and it hereby is granted; and

6. Southern Airways and Piedmont Aviation shall each file environmental evaluations pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of the date of adoption of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc.76-38045 Filed 12-27-76;8:45 am]

COMMISSION ON CIVIL RIGHTS

CONNECTICUT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7:30 pm. and end at 11:00 pm. on February 3, 1977, at the Holiday Inn, Meriden, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss status of SAC projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D. C., December 22, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-38092 Filed 12-27-76;8:45 am]

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory (SAC) of the Commission will convene at 12:00 noon and end at 2:00 pm. on January 11, 1977, at the 5th Floor Conference Room, 1121 Vermont Ave., NW., Washington, D.C. 20425.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to review and discuss the followup activity to the Forum on civil rights issues.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D. C., December 22, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-38091 Filed 12-27-76;8:45 am]

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Meeting Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER Friday, December 10, 1976, (FR Doc. 76-36308) on page 54014, is hereby cancelled.

Dated at Washngton, D.C., December 22, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-38090 Filed 12-27-76;8:45 am]

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and end at 3:00 p.m. on January 17, 1977, at 230 South Dearborn Street, Room 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting will be for the Education Subcommittee to develop procedures to monitor Chicago school desegregation plans and meet with local and state educators.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 22, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-38089 Filed 12-27-76;8:45 am]

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and end at 11:00 p.m. on January 20, 1977, at the Augusta Civic Center, Board Room, Augusta, Maine 04330.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this open meeting is to discuss status of subcommittee and plan for banking conference.

This meeting will be conducted pursuant to the provisions of the Rules and Regulatons of the Commission.

Dated at Washington, D.C., December 22, 1976.

ISAIAH T. CRESWELL, Jr.
Advisory Committee Management Officer.

[FR Doc.76-38085 Filed 12-27-76;8:45 am]

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Maine Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and end at 5:30 p.m. on January 25, 1977, at the Augusta Civic Center, Cushnock Auditorium, Community Drive, Augusta, Maine 04330.

Persons wishing to attend this open conference should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this conference is to discuss Equal Employment Opportunity in the Banking Industry in Maine.

This conference will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 22, 1976.

ISAIAH T. CRESWELL, Jr.
Advisory Committee Management Officer.

[FR Doc.76-38086 Filed 12-27-76;8:45 am]

TENNESSEE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. and end at 5:30 p.m. on January 21, 1977, at the Ramada Inn, 160 Union Ave., Southern Suite, Memphis, Tenn. 38103.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Bldg., Room 362, 75 Piedmont Ave., NE., Atlanta, Ga. 30303.

The purpose of this meeting is follow-up activity to the Tennessee SAC's open hearing of October 8–9, 1976, and request for Commission hearing in support of and request of Tennessee SAC.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-38087 Filed 12-27-76;8:45 am]

TENNESSEE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. and end at 5:30 p.m. on January 14, 1977, at the Ramada Inn, 160 Union Avenue, Levee Room, Memphis, Tennessee 38103.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Bldg., Room 362, 75 Piedmont Ave., NE., Atlanta, Ga. 30303.

The purpose of this meeting is followup activity to the Tennessee SAC's open meeting of October 8–9, 1976, and request for Commission hearing in support of and request of Tennessee SAC.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 22, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-38088 Filed 12-27-76;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF THE INTERIOR

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Director—Office of Water Research and Technology, Office of the Assistant Secretary—Land and Water Resources, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37788 Filed 12-27-76;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Executive Director, Office of the Executive Director.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners

[FR Doc.76-37787 Filed 12-27-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

Revocation of Authority to Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Securities and Exchange Commission to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Chairman, Office of the Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37789 Filed 12-27-76;8:45 am]

MANUAL ON FUND-RAISING WITHIN THE FEDERAL SERVICE FOR VOLUNTARY HEALTH AND WELFARE AGENCIES

Proposed Changes

Notice is hereby given that under authority of Executive Order 10927 it is proposed to amend the Manual on Fund-Raising Within the Federal Service for Voluntary Health and Welfare Agencies. Interested agencies and persons may submit written comments and suggestions to the Office of the Chairman, U.S. Civil Service Commission, Washington, D.C. 20415, to be received by February 1, 1977. The proposed revisions are included in the material set out below.

UNITED STATES CIVIL SERVICE COMMISSION,
GEORGE J. McQUOID,
Assistant to the Chairman.

DECEMBER 20, 1976.

PLAN FOR THE MANUAL

A loose-leaf reference publication. This manual is the official medium of the Chairman of the U.S. Civil Service Commission for issuing policy, procedures and informational material on the fund-raising program in the Federal service. The manual provides guidance to Federal officials and representatives of recognized voluntary health and welfare agencies on fund-raising practices in the Federal service.

To keep the manual current and complete, it is in loose-leaf form and revisions are issued as replacement pages. Revised pages and instructions for pen-and-ink changes are conveyed by a numbered series of transmittal sheets. The transmittal sheets describe the nature of the revision, and the replacement pages identify the specific changes in the text by a star at the beginning and at the end of revised material. The deletion of part of a paragraph is indicated by two consecutive stars; of an entire paragraph by a line of stars. Transmittal sheets should be filed in numerical order in the back of the book as a check on the receipt of all numbers issued.

There are no binders or tabs designed specifically for the manual. Manual material is punched to fit an ordinary three-ring binder.

Information for coordinating purposes. A Fund-Raising Bulletin is issued by the Chairman of the Civil Service Commission each spring to announce the national voluntary agencies approved for solicitation privileges in the Federal service during the ensuing campaign period. Other communications will be issued, as necessary.

A detailed guideline for effective campaigning on the job is incorporated in Chapter 6, in suitable form for reproduction and distribution to Federal campaign officials and keyman as needed.

Procurement and distribution within the Federal service. Federal departments and agencies are expected to purchase copies of the manual and its revisions by

requisition from the Government Printing Office. Copies should be distributed to all points within the agency that maintain administrative regulations. As a minimum, a copy of the manual should be available at all places of major employment. The manual may be reproduced for incorporation into an agency's internal administrative manual system.

Purchase by voluntary agencies. Voluntary health and welfare agencies and other non-Federal organizations cannot use the official requisition procedures described above. They may purchase the manual from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20401.

Inquiries about the program. Technical questions or complaints about functioning of the program in a particular department's or agency's campaign should be addressed to the agency's Fund-Raising Program Coordinator. General inquiries about the program as it applies in more than one agency should be addressed to the appropriate Federal coordinating group at the location involved. If there is no local group, inquiries may be addresed to the Assistant to the Chairman, U.S. Civil Service Commission, Washington, D.C. 20415.

CHAPTER 1—GENERAL INFORMATION

1.1 BACKGROUND AND PURPOSE OF THE PROGRAM

It has always been Federal Government policy to cooperate with an assist voluntary health and welfare agencies in soliciting funds for worthy causes from Federal personnel. At one time, the increasing number of funds drives began to create an administrative burden for Federal officials. They were besieged by dozens of agencies seeking endorsements and the privilege of soliciting employees on the job. In addition, employees were confused by the multiplicity of appeals—as many as 10 to 20 a year in some departments. After extensive study of the situation, a uniform program was established in 1956 to limit the number of campaigns and to insure true voluntary giving by Federal personnel. The purpose of the fundraising program within the Federal service is to establish policies and procedures governing the solicitation of Federal civilian and military personnel for contributions to private charitable and other humanitarian organizations. The program was originally monitored by the President's Committee on Fund Raising Within the Federal Service. When the committee was abolished, its responsibilities were assigned to the Chairman of the U.S. Civil Service Commission by Executive Order 10927 of March 18, 1961.

1.2 SCOPE

The program governs all fund-raising by private voluntary agencies among Federal employees and members of the armed forces at their places of employment or duty stations. Thus, it is applicable to 5 million civilians and military personnel in all executive departments and agencies throughout the world. The program does not apply to solicitations by organizations of Federal employees or members of the armed forces among their own members and for their own benefit. These solicitations are excepted from the program by section 3 of Executive Order 10927 and are governed by rules approved by the head of the department or agency concerned.

1.3 LEGAL AUTHORITY

The policies and procedures prescribed in this manual are directed to the heads of all executive departments and agencies under the authority of Executive Order 10927.

1.4 SUMMARY DESCRIPTION OF THE PROGRAM

1.41 *Eligibility of National Voluntary Agencies.* National voluntary agencies apply to the Chairman of the Civil Service Commission each year for on-the-job solicitation privileges in the Federal Government. Early each calendar year, he issues a list of agencies which have met the prescribed standards as to program objective, administrative integrity, and financial responsibility.

1.42 *Assigned Campaign Periods.* Federal fund-raising campaigns are assigned to fall, winter, or spring periods. In the United States, Combined Federal Campaigns are held in the fall; the DOD Overseas Combined Federal Campaign is also held during a 6-week period in the fall. Where there is no Combined Federal Campaign, the fall period is designated for united funds, community chests, or other local federated groups; the winter period for national health agencies and international service agencies; and the month of March for the American Red Cross, except in communities where it participates in a local united fund or Combined Federal Campaign.

1.43 *Joint Arrangements.* Recognized national voluntary agencies which have been assigned to the same period are required to coordinate solicitation arrangements at all locations where they run campaigns. For example, except where Combined Federal Campaigns are held, the national health agencies and the international service agencies, both assigned to the winter period, must coordinate their programs.

Coordinated campaigns are developed by the participating voluntary agencies under administrative arrangements which provide for individual agency recognition, description of each agency's services and alocation of contributions in accordance with the specific designations by donors.

1.44 *Combined Federal Campaign.* At locations where there are 200 or more Federal personnel, all campaigns must be consolidated into a single annual drive, the Combined Federal Campaign.

1.45 *Decentralized Operations.* Voluntary agency representatives initiate campaigns in their assigned periods by direct contact with the heads of Federal offices and installations in the local communities. Each Federal agency conducts its own solicitation among its employees, using campaign materials, supplies and speakers furnished by the voluntary agencies.

1.46 *Solicitation Methods.* Employee solicitations are conducted during duty hours using methods which permit true voluntary giving and reserve to the individual the option of disclosing his gift or keeping it confidential.

1.47 *Off-the-job Solicitation.* Many worthy voluntary agencies do not participate in the on-the-job program because they do not wish to join in its coordinated arrangements or because they cannot meet the requirements for eligibility. Such agencies may, of course, solicit Federal employees at their homes, as they do other citizens of the community, or appeal to them through union, civil, professional, or other private organizations. In addition, limited arrangements may be made for off-the-job solicitation on military installations and at entrances to Federal buildings.

1.5 FEDERAL POLICY ON CIVIC ACTIVITY

Federal personnel are encouraged to participate actively in the work of recognized voluntary agencies—as members of policy boards or committees, heads of local campaign units, or volunteer workers—to the extent consistent with agency policy and prudent use of official time. They are encouraged, also, to devote as much of their private time as possible to such volunteer work in the public interest.

CHAPTER 2—ORGANIZATION AND FUNCTIONAL RESPONSIBILITIES

2.1 DEVELOPMENT OF POLICY AND PROCEDURES

2.11 *Chairman of the Civil Service Commission.* The Chairman is responsible under Presidential authority for establishing fund-raising policies and procedures in the executive branch. With the advice of the interested organizations and the Federal departments and agencies, he makes all basic policy, procedural and eligibility decisions for the program.

2.12 *Policy Committee.* The Policy Committee is appointed by the chairman and consists of a selected number of Fund-Raising Coordinators from the executive departments and agencies and the presidents, or their personal representatives, of the largest employee organizations in the Federal service. It is responsible for providing direct working participation by Federal agencies and employee organizations in the development of the program. It acts through general meetings and ad hoc working committees, as required.

2.13 *Eligibility Committee.* The Eligibility Committee consists of a chairman and four other members selected by the Chairman from the Policy Committee. The committee is responsible for recommending to the Chairman:

a. Eligibility determinations on national voluntary agencies;

b. Modification of eligibility standards and requirements as needed;

c. Any other matters as requested by the Chairman.

2.2 PROGRAM ADMINISTRATION

2.21 *Federal Agency Heads.* The head of each executive department and agency is responsible for:

a. Seeing that voluntary fund-raising within his department or agency is conducted in accordance with the policies and procedures prescribed by this manual;

b. Designating a top-level representative as Fund-Raising Program Coordinator to work with the Chairman of the Civil Service Commission as necessary in the administration of the fund-raising program within his agency;

c. Assuring full participation and cooperation from his installations in local fund-raising campaigns.

2.22 *Fund-Raising Program Coordinators.* The responsibilities of agency Fund-Raising Program Coordinators are to:

a. Cooperate with the Chairman of the Civil Service Commission and the representatives of national voluntary agencies in the development and operation of the program;

b. Maintain direct liaison with the Office of the Chairman in the administration of the program;

c. Publicize program requirements throughout the department or agency;

d. Answer inquiries about the program from officials and employees and from external sources;

e. Investigate and arrange for any necessary corrective actions on complaints that allege violation of fund-raising program requirements within the agency.

2.3 PROGRAM COORDINATION

The Office of the Chairman, Civil Service Commission, coordinates the agencies' administration of the fund-raising program and maintains liaison with national voluntary agencies.

2.4 LOCAL VOLUNTARY AGENCY REPRESENTATIVES

The eligible national voluntary agencies provide their State and local representatives with policy and procedural guidance on the Federal program. The local representatives are responsible for:

a. Initiating local campaigns in the Federal establishment;

b. Furnishing educational materials, speakers and campaign supplies appropriate to the Federal program.

2.5 LOCAL FEDERAL AGENCY HEADS

The head of the Federal department or agency provides the heads of the local Federal offices and installations with copies of the Federal fund-raising manual. The local agency heads are responsible for:

a. Cooperating with State or local representatives of eligible voluntary agencies and with the local Federal officials in organizing local Federal campaigns;

b. Undertaking official campaigns within their offices or installations and providing active and vigorous support with equal emphasis for each authorized campaign;

c. Assuring that personal solicitations on the job are organized and conducted in accordance with the procedures in Chapter 6;

d. Insuring that authorized campaigns are kept within reasonable administrative limits of official time and expense.

e. In addition, if no local Federal coordinating group exists, the head of the local Federal installation which has the largest number of civilian and military personnel is responsible for administering the nondiscrimination requirements of Chapter 7 in his local area.

2.6 LOCAL FEDERAL COORDINATING GROUPS

When there are a number of Federal agency offices and installations in the same local area, some interagency coordination is necessary in order to achieve effective community-wide campaigns and to improve general understanding and compliance with the fund-raising program. The Chairman of the Civil Service Commission assigns the responsibility for local coordination to existing organizations of Federal agency heads whenever possible, and to special committees where needed.

The local Federal coordinating group is authorized to make final decisions within the provisions established in the Manual, when the voluntary groups are unable to agree on campaign matters, or when their agreed upon action does not promote the best interests of Federal employees or the campaign.

2.61 *Authorized Local Federal Coordinating Groups.* Coordinating responsibility is assigned to one of the following organizations:

a. *Federal Executive Boards.* These boards exist in principal cities of the United States for the purpose of improving interagency coordination. They are composed of local Federal agency heads who have been designated as Board members by the heads of their departments and agencies under Presidential authority.

b. *Federal Executive Associations and Business Associations.* These self-organized associations of local Federal officials exist at many points of Federal concentration for the purpose of general interagency cooperation.

c. *Fund-Raising Program Coordinating Committees.* These committees are established in communities, as needed, under the authority of E.O. 10927, where there is no Federal coordinating group in existence. Leadership in organizing such a committee is the responsibility of the head of the local Federal installation which has the largest number of civilian and military personnel. Local Federal agency heads or their designated representatives serve on the committee and determine all organizational arrangements.

2.62 *Fund-Raising Responsibilities.* Within the limits of the policies, procedures and arrangements made nationally, the fund-raising responsibilities are to:

a. *Facilitate local campaign arrangements.* The Federal coordinating group (1) names a high-level chairman for the authorized Federal campaigns, (2) provides lists of Federal activities and their personnel strength, (3) cooperates on interagency briefing sessions and kick-off meetings, and (4) supports appropriate publicity measures needed to assure campaign success.

b. *Improve Federal agency understanding and compliance with program policies and procedures.* The coordinating group serves as the central medium for resolving program questions locally, to the extent possible. Any questions which cannot be resolved locally may be referred to the Office of the Assistant to the Chairman, U.S. Civil Service Commission, Washington, D.C. 20415.

c. *Administer program requirements.* The coordinating group is responsible for organizing a local Combined Federal Campaign, where appropriate; administering the requirements for a policy and practice of racial nondiscrimination by voluntary agencies participating in local Federal campaigns; and acting upon any problems of a voluntary agency's noncompliance with the policies and procedures of the Federal fund-raising program.

d. *Develop understanding of voluntary agency programs.* Familiarization with the work of participating voluntary agencies is highly commended to all Federal employees and particularly to members of the Federal coordinating groups. Because of the group's particular responsibilities in connection with the fund-raising program, it is valuable for members to develop a broad understanding of the different voluntary groups' programs. They can do this through service on community-wide planning and allocation bodies or service as volunteers. However, they should avoid participating in decisions of Federal coordinating groups that concern the distribution of campaign funds while serving on committees or boards of specific local, national, and international voluntary agencies.

e. *Communicate with the Office of the Chairman of the Civil Service Commission.* Each local Federal agency head receives fund-raising directions through his agency channels and can raise questions that pertain to fund-raising activities within his agency by the same means. However, the coordinating group refers unresolved local fund-raising questions or problems that are common to several Federal agencies directly to the Office of the Chairman for decision. The Chairman of the Civil Service Commission communicates directly with the chairman of the local coordinating group for information about the local fund-raising situation.

CHAPTER 3—CAMPAIGN ARRANGEMENTS FOR VOLUNTARY AGENCIES (EXCLUDING COMBINED FEDERAL CAMPAIGNS)

3.1 TYPES OF VOLUNTARY AGENCIES

Voluntary agencies are private, self-governing organizations financed primarily by contributions from the public. Some are national in scope, with a national organization and state or local chapters or affiliates. Others are primarily local, both in form of organization and extent of services. The Federal program involves solicitation arrangements

for four broad categories of such agencies:

a. Local health, welfare, or recreational services agencies, such as visiting nurse associations, homes and clinics for children and the aged, and neighborhood centers for youth recreation and guidance.

b. National health agencies providing research and public education on a national basis as well as local services, e.g., the American Cancer Society and American Heart Association.

c. National and international welfare, recreational services, and emergency relief—the American National Red Cross.

d. National agencies having an international service function which involves health, welfare or freedom-building programs in foreign countries, such as CARE and Project HOPE.

3.2 TYPES OF FUND-RAISING METHODS

The methods used by voluntary agencies in public fund-raising are usually characterized as federated or independent. A federated campaign is one conducted by a united fund or local community chest. In federated campaigns, local voluntary agencies join contractually into a single organization for fund-raising purposes. A local community chest, united fund, or other local federated group will be considered and supported as a single agency. Local chapters or affiliates of some national agencies are usually admitted as additional participating members of the federated group.

An independent campaign is one conducted by a local or national voluntary agency through its own fund-raising organization. Some national agencies conduct only independent campaigns as a matter of agency policy. Others either campaign independently or participate in federation dependent upon local circumstances and the admission policies of local federated groups.

3.3 CONSIDERATIONS IN MAKING FEDERAL ARRANGEMENTS

Because of the number of worthy voluntary agencies and their major differences in fund-raising policy, coordinated arrangements are necessary in order to provide Federal employees an opportunity, within reasonable administrative expense, to make their contributions. Both federated and independent fund-raising policies are supported since each responds to the legitimate purposes of the voluntary agencies involved. However, in order to keep the number of on-the-job solicitations practical, independent appeals must be grouped into joint campaigns of agencies having similar characteristics, e.g., the National Health Agencies and the International Services Agencies.

3.4 DEFINITION OF TERMS USED IN FEDERAL ARRANGEMENTS

3.41 *Domestic area.* The 50 United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico.

3.42 *Overseas area.* All other points in the world where Federal employees or members of the armed forces are stationed.

3.43 *Recognized national voluntary agency.* An agency which has been declared eligible by the Chairman of the Civil Service Commission for participation in independent or joint campaigns in the Federal establishment.

3.44 *National voluntary agency "supported primarily through united funds and community chests."* An agency which generally solicits within the Federal establishment as a participating member of community chests, united funds or other local federated groups which are members in good standing of, or are recognized by, the United Way of America, for example, United Service Organizations, Inc. (USO).

3.45 *Federated community.* A federated community is a location within the domestic area where a federated fund-raising program is operated by national and local voluntary agencies through a community chest, united fund or other local federated group which is a member in good standing of, or is recognized by, the United Way of America, and which meets the nondiscrimination requirements prescribed in Chapter 7 and the requirements for the adoption and use of the Uniform Standards for Accounting and Financial Reporting. In a federated community, recognized national voluntary agencies can join the federated campaign group or participate in individual campaigns. However, voluntary agencies "supported primarily through united funds and community chests" are authorized to solicit on-the-job in a federated community only as participating members of the local fund or chest.

3.46 *Nonfederated community.* A location within the domestic area where there is no federated fund-raising program or where the federated program does not include any national voluntary agency of the types defined in paragraphs 3.43 and 3.44 or does not meet the nondiscrimination requirements prescribed in Chapter 7 and the requirements for the adoption and use of the Uniform Standards for Accounting and Financial Reporting.

3.5 POLICIES GOVERNING FEDERAL ARRANGEMENTS

a. *Campaign arrangements established nationally.* The basic campaign arrangements in this chapter have been established by the Chairman of the Civil Service Commission after considering the views of representatives of national voluntary agencies, the executive departments and agencies, and Federal employee organizations. Commitments are made nationally in order for the independent national voluntary agencies to develop and administer joint campaigns in the Federal establishment. Therefore, local Federal agency heads are not authorized to vary from the established arrangements except to the extent that local variations are expressly provided for.

b. *Number of solicitations.* Not more than three solicitations on the job will be made at any location annually on behalf of voluntary health, welfare, or international service agencies, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Chairman of the Civil Service Commission. At locations where the Red Cross participates in a local federated campaign no more than two such solicitations will be made annually. Only one solicitation will be made at locations where there is a Combined Federal Campaign.

c. *No duplicate or supplemental campaigns.* No one voluntary agency may be permitted to solicit Federal personnel at their place of employment or duty station more than once in any year except in the case of an approved emergency or disaster appeal.

d. *Responsible conduct.* In the event a national voluntary agency fails to adhere to the eligibility requirements or to the policies and procedures of the Federal program, solicitation privileges may be withdrawn by the Chairman of the Civil Service Commission at any time after due notice and opportunity for consultation.

3.51 *Federated campaigns.* 3.511 *Authorization.* A local community chest, united fund or other local federated group which is a member in good standing of, or is recognized by, the United Way of America, Inc., and which meets the nondiscrimination requirements prescribed in Chapter 7 and the accounting and financial reporting requirements spelled out in Section 5.33 of Chapter 5 of this manual is authorized on-the-job solicitation privileges in its local campaign area on behalf of any of its member agencies which also meet these requirements. Certification as to compliance with the nondiscrimination requirements must be made by the member agency. Certifications as to the accounting and financial reporting requirements on behalf of local united funds and each member agency will be made by the United Way of America to the Office of the Chairman of the Civil Service Commission. While it is expected that all funds and member agencies will conform to this requirement, special circumstances may require an exception. Requests for exception should be directed by the United Way of America on behalf of the local fund or a member agency to the Office of the Chairman, U.S. Civil Service Commission.

If a member agency does not meet the accounting and financial reporting and nondiscrimination requirements, it shall not be permitted to solicit contributions from Federal personnel in the local area. Failure by a member agency to meet the accounting and financial reporting requirements will not affect the right of the entire fund or other member agencies which meet such requirements to solicit. However, failure of a member agency to meet the nondiscrimination requirements may disqualify the fund from soliciting contributions. If the local fund or chest does not meet these requirements, the local area becomes a nonfederated community for purposes of fund-raising, and solicitations will be coordi-

nated in accordance with section 3.52 of the manual.

3.512 *Requirements.* To be eligible for participation in the Federal fund-raising program, the local federated group should be broadly representative on its board and committee membership of the social and economic characteristics of the community and should be making bona fide efforts to meet community needs. Also, requirements for participation in a local federated group must be in writing, and available to the public, reasonable, and applied fairly and uniformly to all local agencies requesting participation. Procedures must be provided by the federated group for at least one review of any decision denying participation requested by a local agency. The review must be conducted by a committee or group within the federated organization which did not participate in the original decision. A written statement of the reasons for denial must be provided to the applicant agency.

NOTE.—Where a local chapter or affiliate of a national agency, precluded from independent participation in the Federal fund-raising program because the agency is supported primarily through united funds, is not approved for participation by a local united fund, such chapter or affiliate may request a Civil Service Commission review to determine that the reasons for its non-approval are not "arbitrary and capricious." Before taking any action, the Civil Service Commission will ask for a report on the facts by the United Way of America.

3.513 *"Causes" excluded.* Solicitation for a health or other "cause," e.g., for "Mental Health," "Heart Disease," without identification of the specific voluntary agency for which the funds are sought, is not authorized. All funds collected from Federal personnel must be allocated only to specific voluntary agencies in accordance with the contractual agreements of the fund or chest.

3.514 *Campaign period.* The fall of the year is reserved for local federated campaigns, coordinated solicitations or combined campaigns in the Federal establishment.

3.52 *Coordinated solicitations in nonfederated communities and mixed areas.* 3.521 *Nonfederated communities.* In a nonfederated community as defined in paragraph 3.46, recognized national voluntary agencies and national voluntary agencies "supported primarily through united funds and community chests" are eligible to participate with purely local voluntary agencies in a coordinated solicitation during the fall of the year. Purely local voluntary agencies must have earned good will and acceptability within the overall geographic area covered by the campaign, and must meet the nondiscrimination requirements set forth in Chapter 7 and the accounting and financial reporting requirements spelled out in Section 5.33 of Chapter 5 of this manual. In nonfederated areas, voluntary agencies participating in fund-raising within the Federal service will provide certifications to local Federal officials. Where there are special circumstances (e.g., lack of professional staff, small size of fund), the local Federal officials may request an exception from the Office of the Chairman, U.S. Civil Service Commission, on behalf of the agencies.

The eligibility of local agencies desiring to join in the solicitation will be determined by the local Federal coordinating group, where one exists. The standards in Chapter 5 will be used as guidelines in determining eligibility. The local and national voluntary agencies that are eligible to participate in a coordinated solicitation will be responsible for developing an appropriate fund-raising organization to handle all phases of the campaign. Campaign arrangements in consonance with the Federal program will be worked out by the local Federal coordinating group and the local voluntary fund-raising organization.

3.522 *Mixed areas.* In an area where a Federal installation overlaps or is part of two or more federated or nonfederated communities, the Federal coordinating group is authorized to develop a coordinated solicitation best suited to the needs of the locality. Arrangements in consonance with the Federal program will be worked out with the representatives of the local and national voluntary agencies and the federated groups in nearby communities in which the Federal personnel reside on a mutually agreeable basis.

3.53 *Independent campaigns.* 3.531 *American National Red Cross.* The American Red Cross can conduct independent campaigns in the month of March at all locations where it has a chapter that:

a. Does not participate in a united fund or other federated or combined campaign; and

b. Is organized to serve the community within which the Federal office or installation is located or nearby.

3.532 *Joint campaigns of other recognized national voluntary agencies.* Except for locations covered by a Combined Federal Campaign, joint campaigns are authorized under administrative arrangements developed by and mutually acceptable to the participating voluntary agencies, and must include the following conditions:

a. *Joint and Concurrent Operation.* All recognized national health agencies will conduct one joint campaign, and the international service agencies another; the two groups will solicit concurrently in the same period at all authorized locations.

b. *Authorized Locations—Health Agencies.* Each recognized national health agency may participate at those locations where it is represented by a state or local chapter or affiliate:

(1) Which does not participate in a local united fund or community chest campaign;

(2) Which is organized to serve the community within which or where nearby a Federal office or installation is located; and

(3) Which shares fully in the planning, work and expense of the local joint campaign.

Each voluntary health agency's designated representative will annually certify a list of the locations in the state (counties) where its chapters or affiliates meet the above conditions. The list is submitted to the appropriate state coordinating committee of the Federal Service Campaign for the National Health Agencies.

c. *Authorized Locations—International Service Agencies.* Each recognized international service agency may participate at those locations where its authorized representative shares fully in the planning, work and expense of the local joint campaign.

d. *Agency Identification.* Each participating national agency will be specifically identified by name in the joint campaign materials provided to potential givers.

e. *Educational Opportunity.* Each participating national agency will be allowed to describe its purpose and program in the campaign materials provided to potential givers.

f. *Designation of Gifts.* Each participating national agency will receive all gifts specifically designated to it by givers.

g. *Campaign Period.* The joint campaigns will be conducted concurrently in one of the following periods:

(1) January 1 to February 15—in communities where the local Red Cross chapter conducts an independent campaign during March.

(2) Any continuous 6 weeks period between January 1 and April 30 in other locations in the domestic area. The exact period is determined locally by the joint campaign organizations.

3.54 *Overseas Campaign.* 3.541 *DoD Overseas Combined Federal Campaign.* A Combined Federal Campaign is authorized for all Department of Defense activities in the overseas area[1] during a 6 weeks' period in the fall. The American National Red Cross, each national health agency recognized for campaigns in the domestic area (the Federal Service Campaign for the National Health Agencies), and each international service agency recognized for campaigns in the domestic area plus any national voluntary agency recognized for overseas campaigns only may participate in the DoD Overseas Combined Federal Campaign.

3.542 *Local Voluntary Agency Campaign.* The heads of overseas offices and installations may, at their discretion, permit the solicitation of their military and civilian personnel for local voluntary agencies. Such campaigns will be conducted in accordance with the basic policies and procedures of the Federal program and at times which do not conflict with the DoD Overseas Combined Federal Campaign period. The eligibility standards in Chapter 5 may be used as guidelines in determining the eligibility of local voluntary agencies. Federal leadership in organizing such

[1] Excludes Hawaii, the Panama Canal Zone, and the Commonwealth of Puerto Rico which are in the domestic area.

campaigns will be assumed by the head of the overseas Federal establishment which has the largest number of U.S. personnel in the campaign area.

3.543 *Optional Participation by Certain Civilian Agencies.* Federal civilian departments and agencies which have traditionally considered their overseas personnel as members of the National Capital Area for fund-raising purposes may continue this practice.

3.6 OFF-THE-JOB SOLICITATION AT PLACES OF EMPLOYMENT

The program for on-the-job solicitation cannot accommodate all the various fund-raising policies and methods of the voluntary agencies. Therefore, voluntary agencies which are not recognized for the on-the-job program may be authorized off-the-job solicitation privileges at places of Federal employment at the discretion of the local Federal agency heads concerned and under the conditions specified below. Since dual solicitation is not authorized, this privilege cannot be made available to any voluntary agency that is included, independently or as a member of a federated campaign, in the on-the-job program.

3.61 *Family Quarters on Military Installations.* Worthy voluntary agencies may be permitted to solicit at private residences or at similar on-post family public quarters in unrestricted areas of military installations at the discretion of the local commander. However, such solicitation may not be conducted by military or civilian personnel in their official capacity during duty or non-duty hours, nor may such solicitation be conducted as an official command-sponsored project. This restriction is not intended to prohibit nor to discourage military and civilian personnel from participating as private citizens in voluntary agency activities during their off-duty hours.

3.62 *Public Entrances of Federal Buildings and Installations.* Worthy voluntary agencies which engage in limited or specialized methods of solicitations—for example, the use of "poppies" or other similar tokens by veterans organizations—may be permitted to solicit at entrances or in concourses or lobbies of Federal buildings or installations normally open to the general public. The heads of the Federal agencies occupying the building or installation may authorize this privilege at their discretion, and, when necessary, coordinate with the building manager. The agreement with the local representatives of the voluntary agency will specify the authorized locations, the number of solicitors that may be used, and any other necessary arrangements.

CHAPTER 4—THE COMBINED FEDERAL CAMPAIGN

4.1 PURPOSE

The Combined Federal Campaign plan was established to meet employee wishes for a single campaign to reduce Government expense in holding separate campaigns, to permit payroll deductions for charitable contributions, and to provide better support to voluntary health and welfare organizations. The arrangements for combined campaigns were approved by the Chairman of the Civil Service Commission under the authority of Executive Order 10927 of March 18, 1961, which governs fund-raising within the Federal service.

In a Combined Federal Campaign (CFC) the eligible voluntary agencies campaign together at one time in the fall of the year.

4.2 AUTHORIZED VOLUNTARY GROUPS

Arrangements for each local CFC will be worked out through negotiations between the local Federal officials and representatives of the authorized voluntary groups. The four authorized voluntary groups are as follows:

a. *A local united fund, community chest, or other local federated group which is a member in good standing of, or is recognized by, the United Way of America, is eligible to solicit in a CFC.* The number of member agencies in a fund or chest campaign varies from around 20 to over 200, depending upon the locality.

b. *The National Health Agencies.* Eligibility of recognized national health agencies to solicit in a CFC is limited to those locations where the national agency has a State or local chapter or affiliate (a) which is organized to provide direct and meaningful service in the local area (county), and (b) which is not a member agency of the local united fund or chest. The extent of services in the campaign area could, of course, vary from area to area and among individual health agencies. Some examples of direct and meaningful services are: health counseling; disease prevention programs, innoculations; screening for detection of disease, and referrals; clinics and treatment of illnesses and handicaps; educational and information services. As a minimum a health agency chapter should be performing one or more of the above services in the campaign area to be eligible to participate in the local CFC. As a general rule an employee in the solicitation area, or his family, should be able to receive service from a particular health agency, if needed, within a reasonable distance of his employment station. The determination on whether a particular health agency is providing such service in the area is made by the local Federal coordinating group. Any determination that a health agency is not providing service that qualifies it to participate in the local campaign should be submitted to the Civil Service Commission for review before final action to deny solicitation privileges.

c. *The International Service Agencies.* Program operations of International Service Agencies are generally conducted overseas, so that fund-raising eligibility is not limited to the places where they have local chapters or committees. However, if a local chapter participates in a united fund campaign, it cannot participate as a member of the ISA group.

d. *The American Red Cross.* Red Cross chapters constitute the fourth authorized group. Eligibility to solicit in a CFC is limited to those locations where Red Cross does not raise funds with the local united fund or chest.

4.3 RESPONSIBILITY OF LOCAL FEDERAL COORDINATING GROUPS

Each Federal coordinating group is required to organize a Combined Federal Campaign in the local area for which it has fund-raising responsibility. The heads of executive departments and agencies will request their local officials to cooperate fully with the decisions of the Federal coordinating group on all aspects of CFC arrangements.

The Federal coordinating group also makes all final decisions on campaign issues which could not be resolved by direct negotiations among the participating voluntary agencies.

4.4 CFC PLAN

4.41 *CFC as Uniform Fund-Raising Method.* The Combined Federal Campaign is the uniform fund-raising method in all areas in the United States in which 200 or more Federal employees are located.

In order to achieve a single unified campaign for all Federal personnel, all eligible voluntary agencies wishing to participate in fund-raising within the Federal service must do so within the framework of a Combined Federal Campaign.

4.42 *Participation in CFC.* a. *Combined Participation.* Since the Combined Federal Campaign is the uniform authorized fund-raising method for on-the-job solicitation among Federal personnel, a local united fund or community chest, the National Health Agencies, and the International Service Agencies must solicit through such campaigns where they are held. Their local representatives participate as equal partners in the formulation of detailed arrangements for the local campaign and in the preparation of campaign materials.

b. *Non-Participation.* In the event that any of the above groups choose not to participate in a local CFC, they forfeit their fund-raising privilege in local Federal establishments during the fiscal year. Voluntary withdrawal will not prejudice a group's eligibility for the next year's CFC.

c. *Red Cross Participation.* In the communities where the Red Cross is not a member of the local united fund, it will be regarded as a separate campaign organization and full partner in the combined campaign. Red Cross chapters have independent authority with respect to fund-raising policy, so responsibility for deciding on participation in CFC rests with the local chapter board of directors. As with the other national organizations, in the event local Red Cross chapters choose not to participate in CFC, they are not authorized to have a separate campaign in local Federal offices or installations during the fiscal year involved, except in the case of an emergency or disaster appeal for which specific prior approval

has been granted by the Chairman of the Civil Service Commission. (See Manual, sec. 3.5b.)

d. *CFC in Nonfederated Areas.* CFC's must be conducted in nonfederated areas having 200 or more Federal employees. A nonfederated area is a location within the domestic area in which there is either no community chest or united fund but separate voluntary agencies not combined in a fund, or if there is a fund, it is not recognized by the United Way of America. In such cases, the local Federal coordinating group is authorized to approve the participation of each local united fund-type agency, and make arrangements for distribution of funds among such agencies. National Health Agencies (which provide a service in the local area) and International Service Agencies may participate in a Combined Federal Campaign in nonfederated areas.

e. *Exceptions in Areas of Less than 200 Federal Employees.* Where there are 200 or fewer Federal employees in the local campaign area, it may not be practicable to hold a Combined Federal Campaign. Therefore, in such areas local Federal officials are not required to arrange for a Combined Federal Campaign. However, if they believe it would be desirable from the standpoint of the local community or the Federal Government to have such a campaign, they may arrange a Combined Federal Campaign regardless of the number of employees involved. Where a CFC is not conducted because of lack of sufficient Federal employees, the local united fund is authorized to solicit within the Federal establishment during the fall of the year and the National Health and International Service Agencies are authorized to conduct separate spring campaigns. Where the Red Cross is not a member of the local united fund and the area will not have a CFC, then the Red Cross may conduct an independent campaign during the month of March. However, payroll deductions for charitable contributions are only authorized for CFC's.

4.5 ORGANIZING THE LOCAL CAMPAIGN

As previously mentioned, direction of the campaign shall be under the overall policy guidance of the Federal coordinating group and such other arrangements as necessary shall be made to assure the greatest possible success for the campaign. This will include the appointment of a campaign chairman who should carry out his duties in an impartial manner, insuring equal participation of the voluntary agencies in planning campaign arrangements.

When complete, the detailed campaign arrangements will be formalized in a written agreement that includes a budget bearing the signature of the representatives of the authorized voluntary agencies and the chairman of the Federal coordinating group, signifying approval of the campaign arrangements.

4.51 *CFC Committee.* Where necessary, the local Federal coordinating group will designate a committee from among its principal members, called the CFC Committee, to give top policy leadership and direction to the planning, conduct, and evaluation of the local combined campaign. The Federal coordinating group may redelegate any of the authority for the campaign to the CFC Committee. In order to insure employee participation in the planning and conduct of the CFC, employee representatives from the principal employee unions of local Federal installations should serve on the CFC Committee, where possible.

4.52 *Addition of Observers to CFC Committee.* Under certain circumstances, as spelled out in Section 4.7, the CFC Committee will be required to make a determination on the division of campaign receipts among the voluntary groups. To aid the CFC Committee in this process, Observers, appointed by and representing the voluntary agencies, will be added to the committee. Where the Red Cross is a part of the local united fund, the local fund shall be entitled to name two observers. Where the Red Cross is not in the local united fund, it is entitled to one observer and the united fund to one. The National Health Agencies and International Service Agencies are entitled to one observer each. The function of the observers will be to provide such input and advice to the CFC Committee as the committee deems necessary and appropriate. The observers shall not have a vote concerning the division of campaign receipts and shall absent themselves from any CFC Committee meeting where a final determination is to be made concerning the division of campaign receipts.

4.532 *Action Steps by the CFC Committee Chairman.* The Chairman of the CFC Committee will initiate action promptly to organize and plan for the local combined campaign. Suggested action steps are as follows:

a. Meet with the principal representatives of the authorized voluntary groups in the local area, i.e., the local united fund or community chest, the national health agencies, the international service agencies and, in communities where it has a separate Federal campaign, the Red Cross. Enlist their cooperation in the combined campaign.

b. Establish a Local Joint Work Group of Federal and voluntary agency representatives, when necessary. Its purpose is to assemble necessary information and data, plan the detailed campaign arrangements, identify and attempt to resolve any policy issues, and prepare campaign materials. The work group should have a Federal chairman, other management and employee representatives as deemed advisable, and one designated representative from each of the authorized voluntary groups.

c. Insure that local planning and material preparation is scheduled and moves ahead rapidly and that the Federal coordinating group approves detailed arrangements and resolves issues on a timely basis.

4.548 *Loaned Executive Program.* Where appropriate, one or more Loaned Executives may be used in a Combined Federal Campaign. The Loaned Executive Program was authorized by President Nixon in a memorandum to heads of departments and agencies dated March 3, 1971. A Loaned Executive is a Federal employee who is detailed from his agency on a full or part-time basis, for a specific period of time, to conduct or assist in the operation of a Combined Federal Campaign. While no grade level is designated for a Loaned Executive, the individual selected should be capable of assuming a high degree of independent responsibility. Service on the Loaned Executive Program should be with the voluntary consent of the employee.

The purpose of the Loaned Executive in the Combined Federal Campaign is to complement any campaign leadership already provided to the CFC, although a Loaned Executive may personally assume a leadership role. To carry out his responsibilities, the Executive would be detailed to the Federal coordinating group, (such as a Federal Executive Board or Association, Federal Fund-Raising Program Coordinating Committee), or CFC Committee, which is responsible for coordinating the campaign. The length of the assignment is determined by the assigning agency and, during one campaign, executives from several agencies may serve as Loaned Executives so that no one executive is away from his regular duties for a long period of time.

There are a number of advantages for employees who accept such assignments: It helps develop leadership and other executive qualities, and build a knowledge and understanding of the private voluntary health and welfare services. Generally speaking, Loaned Executives will gain a working experience not available within their own organizations and which should be helpful to them in carrying out their regular assignments in their own agencies.

The employing agency decides who will serve as a Loaned Executive and the length of the detail. Executives may not be loaned or assigned to any specific voluntary organization, but only to the official Combined Federal Campaign group. While the Executive will work closely with the private voluntary agencies, an assignment to the staff of the private voluntary organization is prohibited. When on assignment to the CFC, the Executive should be placed on administrative leave.

4.6 BASIC CFC GROUND RULES

The arrangements outlined in sections 4.6 through 4.15 constitute basic ground rules for the Combined Federal Campaign. Certain local variations are permissable if specifically authorized in this chapter or if the voluntary groups unanimously agree to modification.

Within the basic ground rules established by the Chairman of the Civil Service Commission, the local Federal coordinating group is authorized to make final decisions on all matters on which the voluntary groups cannot agree after a reasonable period of negotiation, such as the details in setting ratios for division of undesignated money, in drafting

campaign materials, in relative publicity, etc. The local Federal coordinating group is expected to give thoughtful consideration to the equities involved and the recommendations of each voluntary agency on the matters at issue and to render impartial decisions which will promote the purposes of the Combined Federal Campaign. However, any modification of ground rules in specific instances will be requested by Federal coordinating groups from the Office of the Chairman, Civil Service Commission, and modifications will be granted only in most exceptional circumstances.

The Federal coordinating group should proceed promptly to work out the detailed arrangements for the campaign, covering the items listed below.

a. *Campaign Name.* The name will be the Combined Federal Campaign. The title should include the year for which contributions are solicited and identification of the locality, as for example: 1977 San Antonio Area Combined Federal Campaign.

b. *Campaign Period.* The solicitation period may be any period not in excess of six consecutive weeks between September 1 and November 30.

c. *Campaign Area.* The exact geographical area to be covered by the combined campaign will be determined locally, taking into account past practice and the feasible scope for a single, coordinated campaign. At some locations, however, more than one united fund or chest may be involved in a single CFC. Because of economies possible in this arrangement, consolidation is encouraged where it will not impair fundraising, and local arrangements to this end are desirable. Any changes in campaign area should be discussed with the local voluntary agencies; final decision authority rests with the Federal coordinating group. In any case, clear demarcation of the area to be covered in the campaign is necessary, since receipts may be distributed only to organizations which participate in the CFC.

All civilian employees and members of the armed forces in Federal offices and installations in the local campaign area are included whenever a CFC is organized.

d. *Past Contributions Data.* Each of the authorized voluntary agencies must report past contributions data. This information forms the basis for the division of CFC receipts among the voluntary groups. The Federal coordinating group should compile past receipts records from the voluntary agencies as required by either of the two methods for dividing campaign receipts described in the following section.

4.7 DIVISION OF RECEIPTS

Dollars donated or pledged in a Combined Federal Campaign are either designated by the contributor for a specific voluntary organization, or undesignated. Undesignated funds are those contributions not designated to any particular beneficiary organization. Designated receipts are always credited to the designated organization.

One of the methods below must be used for distribution of undesignated receipts, unless representatives of the participating agencies unanimously agree on another method.

a. *Method "A" for distribution of undesignated funds.* This method may be used:

In areas which used it prior to the fall 1971 CFC;

When there is disagreement among the participating voluntary groups, Federal officials may decide to continue Method A in these areas; or

If all participating groups unanimously agree to use it.

Under this method, designated funds are credited to the group to which the designated organization belongs. The distribution of undesignated funds among the authorized voluntary agencies will be based on a percentage which takes into account the past giving experience by Federal contributors in the local campaign area. A 3-year experience period is used so as to avoid severe fluctuation due to special factors affecting contributions in any one year.

Each of the authorized voluntary agencies reports its CFC total dollar receipts for the last 3 years from Federal military and civilian personnel in the campaign area. The ratio of each group's 3-year dollar receipts to the overall total is the basis for division of undesignated funds. The Local Joint Work Group may recommend adjustments in this ratio as needed to accommodate to (1) Inability to compile accurate data on past contributions in the local campaign area, (2) shifts of member agencies from one group to another, (3) a Red Cross emergency or disaster appeal, and (4) any other major circumstance which a group believes should be considered in setting the final ratio. If the voluntary groups involved cannot agree on the final percentage ratio after a reasonable time for negotiation, the matters at issue will be referred with the recommendations of each group to the Federal coordinating group for final decision. In making the determination regarding division of receipts, the local coordinating group (or CFC Committee) is free to request budget or program information which it deems necessary in making its decision. For the international agencies, only information on national budget and national program shall be requested and local budget and program information shall not be required.

b. *Method "B" for distribution of undesignated funds.* This method is the recommended one for division of undesignated funds. In the event of disagreement on the method to use among the participating voluntary groups using another method, Federal officials may decide to use Method "B".

How the method works. In accordance with instructions of the Chairman of the Civil Service Commission, a dollar amount is established as a base for each group equal to the average of its receipts from three previous years Federal campaigns (include receipts from CFC or independent campaigns) in the local area, before shrinkage and expenses. The dollar base for each group so established shall remain in effect until modified by instructions from the Chairman of the Civil Service Commission, except that the dollar base for each group shall be adjusted annually as determined by the Chairman of the Civil Service Commission in keeping with any changes in the Consumers Price Index from the base month of March of the previous year.

The dollar base for the groups may be adjusted appropriately in the discretion of the local Federal officials based on shifts of member agencies from one group to another. The addition of agencies to a group is not a basis for changing the dollar base of that group; however, such addition would represent a "new or additional requirement" on that group and, therefore, may be appropriate justification for the assignment of over-base funds, if any, to that group by the local Federal officials, as discussed in the following paragraph.

Using this method, each authorized voluntary group has an established dollar base. All designated funds will be credited to a group's dollar base first. Then, undesignated funds will be added to the amount until the group's established dollar base is achieved.

If a group receives designated funds that exceed its established dollar base, such funds shall not be treated as overbase. Only undesignated funds remaining after the dollar base of each group has been achieved shall be considered overbase. These overbase funds will be distributed among the groups at the discretion of the local Federal coordinating group. In allocating overbase funds the Federal officials give consideration to any new or additional program requirements (including a Red Cross emergency or disaster campaign) in local, national or international functions that are justified to them by the voluntary agencies. The justification of new and additional requirements and the allocation of overbase funds shall take place as soon as final campaign results can be determined.

If the funds raised are insufficient to meet the dollar base of each group, or if they meet the dollar bases of some groups and not others, after all the designated money is credited, the undesignated funds shall be added in such amounts as to assure that each group achieves an equal percentage of its predetermined dollar base.

Method "B" as applied to first-time CFC's. For a first-time CFC, the dollar base for each group will be determined by its average gross receipts from the last three Federal campaigns in the local area. After applying designated funds, all undesignated receipts will be added to achieve the dollar base of each group. Any undesignated funds remaining after the dollar base of each group has been met will be distributed in accordance with the ratio of each group's most recent 3-year experience to the total. The results of the campaign for the first CFC will establish the dollar base for each group for a subsequent 3-year period or until modified by in-

structions of the Chairman of the Civil Service Commission. However, the dollar base for each group shall be adjusted as determined by the Chairman of the Civil Service Commission annually in keeping with any change in the Consumers Price Index from the base month of March of the previous year.

4.8 CONTRIBUTOR DESIGNATION

The right to designate will be plainly stated in the contributor's leaflet, but designations will be neither encouraged nor discouraged by keymen solicitors or in campaign publicity materials and speeches, or in materials released to public media.

The contributor's information leaflet will identify the authorized voluntary groups and list their member organizations with a brief statement describing each organization's program. The leaflet will explain how the funds will be divided among the groups and of the contributor's right to designate gifts to individual organizations. Several lines will be provided on the pledge form so that the contributor may designate his gift. A minimum of five lines for designation purposes will be shown on the pledge card itself. The reverse side of the pledge card may be used; however, the five designation lines or boxes should appear on the pledge card itself. Separate designations slips are not authorized regardless of the formula used for division of receipts.

Mention will be made in the contributor's leaflet and provision made on the pledge form for designation only to individual organizations, not to voluntary groups. No information will be included that leads the contributors to designate to voluntary groups. If, however, the contributor should write in a group designation, it will be tabulated and allocated to the group in accordance with the contributor's instructions. If contributions are designated to organizations not participating in the local CFC, they will not be accepted but returned to the contributor.

4.9 DOLLAR GOALS

A dollar goal for the overall combined campaign is recommended. Generally, it provides a focus for group spirit an unity of purpose that contributes materially to success. By apportioning the goal equitably among the Federal offices and installations, each agency shares responsibility in the team effort and has a mark with which to gauge its progress.

The dollar goal should be set with the advice and consultation of the voluntary groups. In developing the proposed goal, the local coordinating group should take into account past giving experience in local Federal campaigns, the needs and reasonable expectations of the voluntary agencies in the current campaign situation, and the probability of a substantial increase in the level of giving due to the single campaign and payroll payment plan. The objective should be to set a goal that is attainable and which can be exceeded in an enthusiastic and purposeful campaign.

Dollar goals are not required. An alternative approach, used successfully in some CFC's, is to rely on "suggested giving" as the principal incentive. For example, the "goal" could be 75 percent participation at the suggested giving level.

4.10 SUGGESTED GIVING GUIDES AND VOLUNTARY GIVING

Suggested giving guides for individual contributions should be constructed locally. The guide may be printed in the contributor's leaflet or on the pledge form. It will be accompanied by a statement explaining that the guide is provided because employees often ask for one but that the decision to give and the amount is up to each employee. In this connection, Federal agencies are not authorized to furnish individual employee suggested giving guides based upon the employee's specific pay or grade; a guide of this kind is comparable to an individual quota or assessment which is prohibited.[2] The contributor's leaflet or the pledge form must also include the express statement that the employee has the privilege of making his gift confidentially in a sealed envelope which will be delivered unopened to the voluntary agencies.[2]

It is desirable to emphasize the CFC concept of a single annual campaign in the contributor's leaflet and other campaign publicity. Reference should be made to the fact that the contributor's CFC pledge is to cover what he would have given in the three (or four) separate campaigns held annually and that the privilege of payment through payroll withholding makes it possible for him to pledge a full year's commitment at one time.

The suggested amounts should correlate proportionally to employee pay scales and should reasonably relate to the campaign goal and guides used in local private employment. The guide should also show the suggested amount may be included. These are usually represented in terms of percent of annual income, number of hours' pay, or suggested size of gift in relation to various income levels.

4.11 CENTRAL RECEIPT AND ACCOUNTING FOR CONTRIBUTIONS

The authorized voluntary groups will arrange, through written agreements, for a central receipt and accounting point in the local area for CFC contributions. A central receipt and accounting point is essential in order to avoid the need for multiple pledge and report forms, and to provide a central location for receipt of periodic remittances from Federal payroll offices during the ensuing year. Central receipt and accounting can be arranged as a joint operating activity of the voluntary groups. One of them can act as agent for all with a sharing of expenses or they may be able to obtain voluntary services from a local bank or Federal Credit Union.

[2] See Manual, sec. 6.6.
[2] See Manual, sec. 6.6.

The central accounting point will first tabulate the designated contributions as specified on the pledge cards, and then tabulate the undesignated funds according to Method A or B. The central point will use the final audited totals of designated and undesignated contributions of each voluntary group as the consolidated ratio for distribution of receipts. The voluntary groups will be responsible for distribution to member organizations in accordance with their internal agreements.

Provision must be made for the audit of CFC funds. If the CFC is over $100,000, an independent certified audit must be performed. Copies of the audits will be shared with appropriate local Federal officials, each participating voluntary group, and the Chairman of the Civil Service Commission.

The cost of central receipt and accounting (and other identifiable expenses such as the printing of campaign and publicity materials) will be shared by the voluntary groups under any arrangement that is mutually acceptable to them. To avoid subsequent misunderstandings, they should agree on a CFC budget and formalize a written agreement (Section 4.5) in advance of the campaign, specifying the nature of the expenses to be shared, the method of distribution and the time of billing. Development of a CFC budget is required in all campaigns over $100,000. Generally, expenses should be shared among the groups in the same ratio as their total campaign receipts, based on final audited totals of designated and undesignated contributions. Central accounting and expense-sharing agreements are the responsibility of the voluntary groups and the Government will not enter into their administration.

In addition to the usual method of cash contribution and direct payment of pledges, the use of voluntary payroll withholding is authorized for military and civilian personnel at CFC locations. However, the local voluntary groups decide whether or not to provide for direct payment of pledges; cash contributions must be permitted Keyman collection of installment pledges is not authorized.

4.12 CAMPAIGN AND PUBLICITY MATERIALS

Campaign and publicity materials will be developed in the local area and will be printed and supplied by the voluntary agencies. Local voluntary agencies should be aware of CFC materials available to them on a national basis from their headquarters, and decide themselves whether to use the material or not. However, all publicity materials relating to CFC must have the approval of the appropriate local federal officials before being used. (Distribution of any bona fide educational material of the voluntary agencies or provision of other services to employees at Federal establishments must be handled through the agency occupational health units, and not the CFC coordinators.)

A single Contributor's Information Leaflet, a Pledge Form and a Payroll

Withholding Authorization are to be distributed by keyman to each potential contributor. The Pledge Form and Payroll Withholding Authorization may be one form.

Campaign materials should constitute a simple and attractive package which has fund-raising appeal and essential working information. Treatment should focus on the combined campaign and homogeneous appeal without undue use of voluntary agency symbols or other distractions that compete for the contributor's attention. Extraneous instructions concerning the routing of forms, tallying contributions, etc. which are primarily for keymen should be avoided.

Generaly, the layout and text of campaign and publicity materials are for local determination. Certain items are prescribed, as follows:

a. *Contributor's leaflet.* This will be the only informational material distributed to individual contributors. It will describe the CFC arrangement, name the participating voluntary groups, and explain the provisions for designations, division of undesignated funds, the payroll deduction privilege, etc. It will list each member organization of the voluntary group with a brief statement of about 25 words on its program.

Some sample CFC text items are included in Attachment A for illustration.

b. *Pledge Form.* When completed, this working form will go to the central receipt and accounting point for the local area. Its format will include the appropriate number of lines for designation purposes.

c. *Payroll Withholding Authorization.* When completed, this form will go to the contributor's payroll office. There are some 1,400 separate payroll offices serving Federal personnel. Many of the Federal departments and agencies payroll on a national or area basis and payroll offices will be receiving withholding authorizations from a number of local combined campaigns. Accordingly, the withholding authorization must be in a standard format and bear adequate identification of the local campaign.

The name and mailing address of the local CFC central receipt and accounting point will be printed at the top of the form. The name should be the same as that for the campaign, and include the year; for example, 1978 San Antonio Area Combined Federal Campaign. The year is needed so that the receipt point can differentiate between the last payroll remittances for one year and the first remittances for the next.

The box entitled "Identification No." will be used for the contributor's social security number, except in the case of agencies which have a separate payroll identification numbering system and in the military services. There is no requirement to use this space and it should be used when it aids in accounting or campaign management.

The standard format and text for payroll withholding authorizations is shown in Attachment B.

Other campaign materials which may be needed, depending upon the size of the operation and local custom, include:

a. *Chairman's Guide.* For use of campaign chairmen in individual Federal installations;

b. *Keyman's Guide.* Instructions for keymen about CFC arrangements, solicitation methods and forwarding procedures;

c. *Keyman's Report Envelope.* With tally sheets (which may be printed on the envelope) on which the keyman will list the names of contributors or the number of confidential envelopes enclosed;

d. *Miscellaneous Campaign Items.* Contributor's Receipt, "We Gave" window stickers, posters, progress charts, awards, etc.;

e. *Publicity Items.* News stories and fillers for the local press and house organs, employee letters, speeches of campaign leaders, division chairmen, films, television and radio material jointly sponsored by the voluntary groups, etc.

Privacy Act requirements regarding campaign materials are discussed in Chapter 6.

4.13 PAYROLL WITHHOLDING

The following policies and procedures are authorized for payroll withholding operations in accordance with Civil Service Regulations, Part 550, Pay Administration. Explanatory notes are shown in parentheses.

a. *Applicability.* Voluntary payroll allotments will be authorized by all Federal departments and agencies for payment of charitable contributions to local Combined Federal Campaign organizations.

b. *Allotters.* The allotment privilege will be made available to Federal personnel as follows:

(1) Employees whose net pay regularly is sufficient to cover the allotment are eligible. An employee serving under an appointment limited to 1 year or less may make an allotment to a Combined Federal Campaign when an appropriate official of the employing agency determines the employee will continue his employment for a period sufficient to justify an allotment. (This includes part-time and intermittent employees who are regularly employed.)

(22) Members of the Armed Forces are eligible, excluding those on only short-term assignment (less than 3 months). (The Department of Defense has modified its military pay allotment regulations to authorize allotments for CFC charitable contributions by service members.)

c. *Authorization.* (1) Allotments will be wholly voluntary and will be based upon contributors' individual written authorizations.

(2) Authorization forms in standard format will be printed by the combined campaign organization at each location. The forms and other campaign materials will be distributed to employees when charitable contributions are solicited.

(3) Completed authorization forms should be transmitted to the payroll offices as promptly as possible, preferably by December 15. However, if forms are received after that date they should be accepted and processed by payroll offices.

d. *Duration.* Authorizations will be in the form of a term allotment for one full year—26, 24 or 12 pay periods depending upon the allotter's pay schedule—starting with the first period beginning in January and ending with the last pay period which begins in December. (The standardization of beginning and ending dates, except for individual discontinuances, is intended to simplify payroll operations and minimize costs.) However, the fact that an employee or military member will not be on duty for the full year should not preclude acceptance of a payroll allotment if he has sufficient time in service remaining to make the allotment practicable. Three months or more would be consdered a reasonable period of time for which to accept an allotment.

e. *Amount.* (1) Allotters will make a single allotment which is apportioned into equal amounts for deductions each pay period during the year.

(2) The minimum amount for allotment will be 50 cents biweekly or semimonthly, $1.00 monthly, with no restriction on size of increment above the minimum.

(3) No change of amount will be authorized during the term of an allotment.

(4) No deduction will be made for any period in which allotter's net pay, after all legal and previously authorized deductions, is insufficient to cover the allotment. No adjustment will be made in subsequent periods to make up for deductions missed.

(These conditions are for the purpose of simplicity and economy in payroll operations. The 50-cent minimum is essential in order to keep administrative expense in reasonable relation to the amount of contribution.)

f. *Remittance.* (1) One check will be sent by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations to the central receipt and accounting point at each location for which the payroll office has received allotment authorizations.

(2) The check will be accompanied by a statement *identifying the agency* and the number of employee deductions. There will be no listing of allotters included or of allotter discontinuances.

g. *Discontinuance.* (1) Allotments will be discontinued automatically:

(a) On expiration of the one-year withholding period;

(b) On death, retirement, or separation of allotter from the Federal service.

(2) The allotter may revoke his authorization at any time by requesting it in writing from the payroll office. Discontinuance will be effective the first pay period beginning after receipt of the written revocation in the payroll office.

(3) A discontinued allotment will not be reinstated.

h. *Transfer.* When an allotter moves to another organizational unit served by a different payroll office, whether in the same or a different department or agency, his allotment authorization will be transferred to the new payroll office, unless expressly revoked by the individual. If there is a delay in receiving the transferred authorization in the new payroll office, the allotter should be permitted to complete a new authorization for

the remainder of the one-year withholding period, which will supersede and revoke his previous authorization.

i. *Accounting.* Federal payroll offices will oversee establishment of individual allotment accounts, deductions each pay period, and reconciliation of employee accounts in accordance with agency and General Accounting Office requirements.

(The simplified system provided in Section f. *Remittance,* is intended to minimize paperwork and to eliminate the need for any accounting reconciliations between payroll office and voluntary groups. The payroll office accepts responsibility for the accuracy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements. The voluntary groups or their designated agents accept responsibility for the accuracy of distribution of remittances among the member organizations and arrangements for independent audit agreed upon by the participating voluntary groups.)

4.14 ORIENTATION, TRAINING AND PUBLICITY ARRANGEMENTS

A formal plan should be developed to cover the orientation of management and employee organization officials, the training of keymen, and publicity to employees and service members.

Federal officials should assist campaign leaders by conducting an enthusiastic and purposeful solicitation in their installations in order to insure maximum group interest and response. Orientation sessions, however, should stress adherence to manual policies and procedures on prohibition against individual employee quotas, assessments, or any other form of coercive action, and on the employee's right of confidentiality as to the amount of his gift. Contributions must be voluntary.

It is essential that keymen be trained effectively on CFC procedures and be equipped to answer any questions or problems the contributors may have as well as questions of a substantive nature regarding the programs of the voluntary agencies.

Employees and service members should be told the background and purpose of the combined campaign arrangements, including the use of installment payment through payroll withholding. Special stress should be placed in pledging generously on a once-a-year basis in order to provide a fair amount of support for all authorized voluntary groups.

Care should be taken that the Combined Federal Campaign kick-off ceremony emphasizes the joint appeal aspect and the combined effort of the voluntary agencies involved. In addition, there should be no publicity within Federal establishments given to specific voluntary agency needs that acts to detract from the consolidated effort represented by CFC.

4.15 NATIONAL COORDINATION AND REPORTING

The Assistant to the Chairman, U.S. Civil Service Commission, is responsible at the national level for advice to local Federal coordinating groups regarding CFC arrangements. Direct communication by mail and telephone is recommended.

Newly established field coordinating groups should promptly notify the Assistant to the Chairman so they can be added to the mailing list for receipt of any supplementary information or instructions issued. These new field coordinating groups are also required to report their campaign areas, their chairman's name and address, and the address of their central receipt and accounting point to the Assistant to the Chairman as soon as possible.

All chairmen of field coordinating groups are requested to furnish reports of campaign results to the Assistant to the Chairman, by January 15 of each year. A reporting format will be furnished CFC locations prior to that date requesting information on the results of the campaign, including the following:

(1) *Basic data.* Number solicited, Number contributors, Total Receipts, Per capita gift;

(2) *Payroll deductions.* Number authorizing, Total pledged;

(3) *Designations.* Summary totals, by campaign organization;

(4) Final distribution ratio for division of designated and undesignated receipts;

(5) Narrative summary evaluation of CFC arrangement based upon campaign experience.

ATTACHMENT A

SAMPLE TEXT ITEMS

WHAT IS THE COMBINED FEDERAL CAMPAIGN? It's a one-time solicitation for voluntary health and welfare agencies. The (name of local united fund) and the National Health Agencies and International Service Agencies (add American Red Cross where appropriate) which normally would solicit next spring are cooperating locally in a single campaign for Federal personnel. This will be the only fund-raising drive for voluntary agencies this year.

HOW DID IT COME ABOUT? Many employees have asked for a single charity drive. It can save a great amount of time and expense for the Government and the voluntary agencies. One drive makes it practicable, too, to have a payroll payment plan. The Combined Federal Campaign has the full endorsement of the heads of executive departments and agencies and the presidents of major employee organizations.

WHY PAYROLL PAYMENT? Employees and servicemen want to contribute their fair share. Payroll payment helps you to do this because you spread your gift in small installments over a full 12 months. What you give does not depend upon how much cash you have on hand at the time you are solicited. Remember, your one-time pledge covers all charitable contributions on the job this year.

The payroll payment plan is available to all civilian employees and to members of the Armed Forces who are assigned in this area. Its use is optional and voluntary with the contributor, under the ground rules which the Government has set to keep down payroll withholding costs:

1. Minimum allotment per payday is 50¢ if you are paid every two weeks or twice a month, or $1 if paid monthly. Above these minimums, allotment may be in any amount.

2. Withholding in the amount authorized, will be for a full year beginning with the first pay period in January. You may discontinue the allotment at an earlier date upon written request to the payroll office, but you cannot change the amount or begin payroll payment again in 19—.

HOW ARE PLEDGES DIVIDED AMONG THE CAMPAIGN ORGANIZATIONS? If Method "A" is used, the following description of the distribution of funds is appropriate: Contributions which are designated to a participating voluntary agency will be honored and credited to the appropriate group. A proportionate amount of the undesignated funds for each of the campaign organizations has been worked out on the basis of their past receipts from Federal personnel in this area, as shown below:

	Percent
(Name of local united fund)	———
National Health Agencies	———
International Service Agencies	———
(Red Cross, if separate)	———
Total	100

If Method "B" is used, the following description of the distribution of funds is appropriate: Each group has a dollar base determined by its past receipts in Federal campaigns in the area. Contributions which are designated to a participating voluntary agency will be honored and credited towards the dollar base of the appropriate group. Undesignated funds will then be used to fill out the dollar base of each group. Undesignated funds remaining after the dollar base of each group has been met will be distributed by local Federal officials to the groups based on new or additional requirements which the groups specify to Federal officials.

SUGGESTED SCALE OF GIVING. Everyone wants to help his fellowman, but the question is frequently asked "What's my share?" Of course, there's no single answer. The Guide below suggests, what a fair share of the campaign goal would be for those at various income levels. It is not to be regarded as a quota or an assessment on any individual. The decision to give and the amount is up to you.

Be as generous as you can.

Make checks payable to "Combined Federal Campaign."

Contributions are tax deductible.

Contributors who use direct payment have the option of making a confidential gift through the use of a sealed envelope which will be delivered without opening to Combined Federal Campaign Headquarters.

Suggested Giving Guide

Annual income	Suggested annual contribution	Suggested biweekly[1] allotment
Up to $4,000	(Suggested annual contribution is a matter for local determination. However, in arriving at it, the fact that the CFC combines the drives of three groups should be taken into consideration.)	
5,000		
6,000		
7,000		
8,000		
9,000		
10,000		
11,000		
12,000		
13,000		
14,000		
15,000		
16,000		
17,000		
18,000		
19,000		
20,000		
Over 20,000	(2)	(2)

[1] Twice this if payday is monthly.
[2] 1% (or other figure determined locally)

1976 COMBINED FEDERAL CAMPAIGN– (INSERT NAME AND ADDRESS OF LOCAL CAMPAIGN)

NAME (FIRST) (INITIAL) (LAST)	IDENTIFICATION NO. OR SOC. SEC. NO	TOTAL GIFT $
HOME ADDRESS (PERSONAL)	DEPT., BUREAU OR AGENCY	PAID BY. PAYROLL DEDUCTION ☐ (COMPLETE AUTHORIZATION BELOW)
CITY STATE ZIP	LOCATION OR TIMEKEEPER	CASH ..... $
		CIVILIAN ☐ MILITARY ☐

FILL IN BLANK BOX OR CHECK BOX SHOWING THE AMOUNT OF YOUR DEDUCTION PER PAY PERIOD

Minimum amount for use of payroll withholding is 50c each pay day if paid every two weeks or twice monthly: $1.00 if paid monthly. The amou indicated by military personnel will be the monthly amount to be deducted as an allotment from pay.

☐ ☐ ☐ $11.00 ☐ $9.50 ☐ $8.25 ☐ $6.00 ☐ $4.25 ☐ $2.75 ☐ $1.25

I Hereby authorize the above named agency or any other agency of the United States Government by which I may be employed during 1976 to deduct the amount shown above from my pay each pay period during calendar year 1976, starting with the first period beginning in January 1976 and ending with the last pay period which begins in December, provided that the amounts so deducted shall be remitted to the Combined Federal Campaign shown above. I understand that this authorization may be revoked by me in writing at any time before it expires.

SIGNATURE _____

DATE _____

REPORTING NO. _____

CSC FORM 804–1975

TO FEDERAL PAYROLL OFFICES
IF THE CONTRIBUTOR MOVES TO THE JURISDICTION OF ANOTHER PAYROLL OFFICE BEFORE 1977, THIS AUTHORIZATION SHALL BE FORWARDED.

(This is the reverse side of the central receipt-record card)

USE ONLY IF DESIGNATING TO AN AGENCY
(SEE CONTRIBUTOR'S LEAFLET FOR INSTRUCTIONS)

AGENCY NO.	AMOUNT	AGENCY NO.	AMOUNT	AGENCY NO.	AMOUNT	AGENCY NO.	AMOUNT	AGENCY NO.	AMOUNT

CHAPTER 5—ELIGIBILITY REQUIREMENTS FOR NATIONAL VOLUNTARY AGENCIES

5.1 PURPOSE

These eligibility requirements are established to insure that:

a. Only responsible and worthy voluntary agencies are permitted to solicit on the job in Federal installations;

b. The funds contributed by Federal personnel will be used effectively and for the announced purposes of the soliciting agencies; and

c. All recognized national voluntary agencies have field organizations capable of participating equitably in the joint campaign arrangements required by the Federal program.

5.2 GENERAL REQUIREMENTS

5.21 *Type of Agency.* Only nonprofit, tax-exempt charitable organizations, supported by voluntary contributions from the general public and providing direct services to persons in the fields of health and welfare services are eligible for approval. Where the health and welfare services are provided by international agencies, such services must be consistent with the policies of the United States Government.

Agencies which are supported primarily through united funds and community chests will only be recognized for independent participation in the Federal fund-raising program in non-federated communities and the overseas area. Such agencies may be eligible for participation in the overseas fund-raising program only if they provide a specific service to persons overseas and meet all other eligibility requirements. National voluntary agencies, not receiving primary support from local united ways, must meet all eligibility requirements in order to participate in the domestic and overseas campaigns.

5.22 *Integrity of Operations.* Only voluntary agencies having a high degree of integrity and responsibility in the conduct of their affairs will be approved. Funds contributed to such organizations by Federal personnel must be effectively used for the announced purposes of the agency.

5.23 *Avoidance of Competition.* To avoid solicitation competition, approval will not be granted to more than one national health agency within a single field which deals with physical handicap or disease, or to more than one international service agency meeting a particular human need in the same geographic area. For any departure to this policy the voluntary agency must demonstrate that it would be in the interest of the public served and the employee contributors.

5.24 *National Scope.* The voluntary agency must demonstrate that:

a. It is organized on a national scale with a national association which is representative of its constituent parts and which, through its board of directors, exercises close supervision over the operations and fund-raising policy of any local chapters or affiliates.

b. It has earned good will and acceptability throughout the United States, particularly in cities or communities within which or nearby are Federal offices or installations with large numbers of personnel.

Good will and acceptability can be demonstrated when a voluntary agency's operating chapters provide service in all or most of the States, and when contributor support comes from al or most parts of the nation. It can also be demonstrated by the extent of public support, the number and location of contributors, the national charatcer of any public campaign, the reputation of the organization nationally, and the proportionate effect of the organization's participation in the Federal program on total campaign income. It is not necessary that international agencies show chapter or affiliate coverage in all or most States.

c. It has sufficient fund-raising representatives at decentralized locations to be able to enter into full participation with a group of voluntary agencies in conducting local campaigns throughout the United States.

d. If it is a national health agency, it has a well-defined national program involving research, education, and community services with sufficiently developed local chapter or affiliate coverage to implement its national program and local service programs in cities or communities within which are nearby are Federal offices or installations with large numbers of personnel.[4]

e. If it is an international service agency, it has a well-defined program, not duplicative of existing programs, which meets basic human needs in an overseas area.

5.25 *Type of Campaign.* Approval will be granted only for fund-raising campaigns in support of current operations. Capital fund campaigns are not authorized. Voluntary agencies must observe the policy and procedural requirements specified for fund-raising in the Federal service.

5.3 SPECIFIC REQUIREMENTS

5.31 *Program.* The voluntary agency is required to have an active and necessary program which provides for direct services to persons, with particular regard to the welfare of the public and the persons served, and for consultation and cooperation with established agencies in the same or related fields, and for efficient operations.

5.32 *Volunteer Control.* The voluntary organization must be directed by an active, voluntary board of directors which serves without compensation, holds regular meetings, and exercises effective administrative control.

5.33 *Finances.* The voluntary agency must adopt the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and maintain a financial system which includes accounting procedures acceptable to an independent certified public accountant. It must conduct fiscal operations in accordance with a detailed annual budget which is prepared and approved at the beginning of the year by the board of directors, with their prior authorization of any significant variations from the approved budget.

5.34 *Administrative and Fund-Raising Expense.* Administrative and fund raising expenses must be reasonable. Expenditures for administration and fund-raising not exceeding 25% of total support and revenue will be considered reasonable. Where administrative and fund-raising expense exceeds this percentage, the burden is on the voluntary organization to demonstrate the reasonableness of its fund-raising and administrative expenses under all the circumstances in its case.

5.35 *Fund-Raising Practice.* The voluntary agency's publicity and promotional activities must be based upon the actual program and operations of the agency, must be truthful and nondeceptive, and must include all material facts. The agency's fund-raising practices must assure protection against unauthorized use of agency contributors' lists; no payment of commissions, kickbacks, finder fees, percentages, bonuses, or overrides for fund-raising; no mailing of unordered tickets or commercial merchandise with a request for money in return; and no general telephone solicitation of the public.

5.36 *Nondiscrimination.* The voluntary agency must observe a policy and practice of nondiscrimination on the basis of race, color, religion, sex, or national origin, applicable to persons served by the agency, to agency staff employment, and to memberships on the agency's governing board, as prescribed in Chapter 7. Organizations which are organized along religious lines or which are organized to serve persons of a particular sex may nevertheless meet eligibility requirements if a bona fide purpose for organizing along religious lines or for directing services to persons of a particular sex can be shown.

5.37 *Annual Report.* The voluntary agency must prepare an annual report to the general public which includes a full description of the agency's activities and accomplishments and the names of chief administrative personnel.

5.38 *Financial Reports.* Preparation of a consolidated annual financial report to the general public in accordance with the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and certification of such report by an independent certified public accountant is also required. The consolidated report shall include all income and expenditures for the national operations and all chapters, committees, affiliates, or satellites.

5.39 *Independent Audit.* The voluntary agency must provide for an annual external audit by an independent certified public accountant.

[4] While a national health agency may meet eligibility requirements, local chapters, in order to participate in the local fund-raising program, must provide a direct and meaningful service in the area (county) in which the campaign is being conducted (see Section 3.532b and Section 4.2b).

5.40 *Source of Funds and Costs Report.* The voluntary agency must file a special report with the Chairman of the U.S. Civil Service Commission which discloses on a consolidated basis the agency's (including chapters and affiliates) sources of funds, fund-raising expense, and use of net funds in its most recent fiscal year.

5.4 APPLICATION REQUIREMENTS

5.41 *Exemptions.* The American National Red Cross, and local community chests or united funds which are members in good standing of, or are recognized by, the United Way of America are exempt from these application requirements except for the nondiscrimination requirements of paragraph 5.46i and the accounting and financial reporting requirements of paragraphs 5.46g and 5.46k. In addition, the United Way of America, as a national organization, must conform in its financial reporting to the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations. Each local united way must also assure that the fund-raising and administrative expenses of its local members are reasonable. Expenditures for administrative and fund-raising costs not exceeding 25% of total support and revenue will be considered reasonable. Before the start of the campaign, the local United Way should certify to the local Federal coordinating group that member agencies participating in the CFC meet this requirement. Any exception to this requirement for individual united fund member agencies must be approved by the local Federal coordinating group.

For purposes of this section, the American National Red Cross and its chapters are recognized as operating an accounting and financial system in substantial compliance with the Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and certification to this effect by local chapters is not required. However, local Red Cross chapters are required to furnish nondiscrimination assurances, as required by Section 7.4 of Chapter 7.

5.42 *Annual Applications.* In order to be considered for solicitation privileges in domestic or overseas campaigns in the Federal service, each national voluntary agency must file an application annually. National voluntary agencies which have already been approved for fundraising privileges in the Federal service are not required to submit the information requested in sections 5.46 a, b, c, d, h, and i, except where there has been a substantial or significant change in these items; for example, a change in purpose of the organization or a decline in chapter coverage or activity. They are required to furnish information in sections 5.46 e, f, g, j, k, l, and m.

5.43 *Time and Place of Filing.* Application must be filed with the Office of the Chairman, U.S. Civil Service Commission, Washington, D.C. 20415 and must be postmarked on or before December 1. Applicants are urged to file as early as possible.

5.44 *Eligibility Decisions.* The Chairman, U.S. Civil Service Commission, with the assistance of an eligibility committee of government officials and employee organization leaders, uses the information filed with the agency's application and derived from other responsible sources to make his decision on an agency's eligibility.

5.45 *Notice of Decision.* Applicants are notified of the decisions on their applications as soon as possible after filing. If dissatisfied with the Chairman's decision, the applicants have the opportunity to request a personal appearance before the Chairman's representative or a review of the decision by that official without a personal appearance.

5.46 *Form and Content of Application.* Applications shall be filed in the following form, and will include the information, documents and data specified:

a. *Corporate Name and Fiscal Year.*

b. *Origin, Purpose and Structure of Organization.* Furnish information to show that the voluntary agency meets the General Requirements of section 5.2 Applications for overseas campaign privileges alone will be considered under modified requirements for paragraphs 5.24c and d.

c. *Chapters, Affiliates or Representatives.* Furnish a list of chapters, affiliates or representatives in alphabetical order by State. Under the State, list cities with chapter, affiliate or representative by names and addresses.

d. *National Scope* (sec. 5.24). Demonstrate the good will and acceptability of the organization throughout the United States.

e. *Program* (sec. 5.31). Outline the program. List the names of other national voluntary agencies which offer similar services covering the whole or a part of the same field of activity, and state past and current relationships with such agencies.

f. *Volunteer Control* (sec. 5.32). Describe board of directors' administrative activity in past year and list current board members' names, addresses and businesses or professions.

g. *Finances* (sec. 5.33). Furnish certification by an independent certified public accountant of compliance with an acceptable financial system and adoption of the Uniform Standards.

h. *Fund-Raising Practice* (sec. 5.35). State compliance with all factors in the section.

i. *Nondiscrimination* (sec. 5.36). Furnish written assurance of nondiscrimination as prescribed by Chapter 7. If applicant has filed satisfactory nondiscrimination assurance and has maintained such nondiscriminatory policy or practice without substantial change, further assurance is not required in applications for renewal.

j. *Annual Report* (sec. 5.37). Furnish copy of latest annual report.

k. *Financial Report* (sec. 5.38). Furnish copy of latest financial report prepared in accordance with the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and provide certification by an independent certified public accountant that the report was prepared in conformity with the "Standards."

l. *Independent Audit* (sec. 5.39). Furnish copy of latest external audit by an independent certified public accountant.

m. *Source of Funds and Costs Report* (sec. 5.40). Furnish a special report to the Chairman of the Civil Service Commission consistent with the reporting requirements of the Standards referred to in section 5.38. The report must include the agency's sources of funds, expenditures by program service and supporting services with fund-raising and other expenditures listed separately. The report must cover the most recent fiscal year and represent a consolidated statement of national and affiliate income and expenditures. The amount of contributions received from united funds or community chests, from Federal service campaigns, and the total from other sources must be separately identified and shown as percent of total contributions. The report must be furnished in accordance with the format shown in the attachment to this Chapter.

5.5 PUBLIC ANNOUNCEMENT OF RECOGNIZED AGENCIES AND ASSIGNED PERIODS

Early in the calendar year, the Chairman of the Civil Service Commission announces the names of all voluntary agencies eligible for participation in the Federal fund-raising program for the ensuing campaign year and specifies the assigned periods for solicitations within the Federal service.

ATTACHMENT A

(Agency)

CONSOLIDATED SOURCE OF FUNDS AND COSTS REPORT
(Including Chapters and Affiliates)

(For the year ending _____)
(date)

	Amount	Percent Income
Support from the Public:		
Received Directly:		
Contributions	$	
Special Events (less related expenses of $_____)		
Subtotal		
Received Indirectly:		
United Funds and/or Community Chests		
Federal Service Campaigns		
Other Contributions		
Subtotal		
Total Support from the Public		
Miscellaneous Revenue:		
Government Grants (including grants-in-kind)		
Service Fees, Literature Sales, etc		
Gain from the Sale of Products		
Memberships		
Investment Income		
Other Income		
Total Miscellaneous Revenue		
TOTAL SUPPORT AND REVENUE		100

Expenditures:	Amount	Percent of expenditure
Program Services:		
(Category)		
(Category)		
(Category)		
(Category)		
Subtotal		
Supporting Services:		
Management and general		
Fund Raising		
Subtotal		
TOTAL EXPENDITURES		100
EXCESS OF REVENUE OVER EXPENDITURES—$_____		

CHAPTER 6—CAMPAIGN PRACTICES AND PROCEDURES

6.1 PURPOSE OF AUTHORIZED CAMPAIGNS

The program for fund-raising within the Federal service exists in recognition of the importance of voluntary agencies in our free society—agencies which complement and strengthen our tax-supported services in a manner which is vital to the well-being of the American people. Their voluntary services to human needs—in local communities and on the national and international scene—depend upon contributions of funds from the public. And the primary source of contributions is employed persons—those with jobs and regular income who recognize a social and civic responsibility to help their fellow citizen. Solicitation of employees on the job is authorized in the Federal service as in most other large organizations, in order to assist voluntary agencies in obtaining the funds to continue their worthy programs. Thus, the purpose of our approved campaigns is to familiarize Federal personnel with the human needs that are being met by voluntary programs and to encourage them to contribute a fair amount for their financial support.

6.2 TRUE VOLUNTARY GIVING

True voluntary giving is the free response of an individual to an appeal which gives him full knowledge of the human needs at stake and encourages him to contribute generously in relation to his financial ability and his responsibility as a good citizen.

Before the present program was inaugurated, the lack of official guidelines for the conduct of campaigns had resulted in employee complaints—warranted or unwarranted—about coercion by management personnel to force contributions on an involuntary basis. The President's concern on this matter forms the basis for the express injunction of Executive Order 10927 that fund-raising arrangements "shall permit true voluntary giving and reserve to the individual the option of disclosing his gift or keeping it confidential." Any practice that involves compulsion, coercion, or reprisal directed to the individual armed forces member or civilian employee because of the size of his contribution or failure to contribute has no place in the Federal program. Coercive practices debase the spirit and purpose and violate the letter of the Executive Order.

It is incumbent upon the heads of Federal offices and installations to see that management and supervisory personnel and other campaign workers are expressly informed of the President's policy. Negative practices are no substitute for the organized, intensive encouragement of voluntary contributions which is contemplated by the Federal program.

Employees should be informed that if they believe that they have been subjected to compulsion, coercion or reprisal in connection with a fund-raising appeal for voluntary agencies in violation of the President's policy, they may file a complaint under the agency's grievance procedure, or directly with the Civil Service Commission.

6.3 CAMPAIGN OBJECTIVES

The purposes of the Federal fund-raising campaign are:

a. To inform Federal employees of the essential role that volunatry agencies play in the community and the nation and their need for public support.

b. To provide an opportunity for every individual to donate to specific worthy agencies with which he is familiar and which he wants to support.

c. To seek 100 percent voluntary participation while preserving the individual's right to give or not to give.

d. To stimulate generous giving in relation to the ability of the giver while preserving his right to give in a confidential manner if he chooses to do so.

6.4 ORGANIZATION FOR SOLICITATION

6.4.1 *Management and Employee Organization Support.* The importance of meeting human needs through our voluntary agencies and of assisting Federal personnel to discharge their social and civic responsibility without fear of coercion calls for solid understanding, backing and cooperation from all levels of management and from employee organizations. The head of each Federal installation is responsible for providing local leadership to each authorized campaign by:

a. Cooperating with voluntary agency representatives and the heads of other Federal agencies in the communitywide effort.

b. Advance planning and activation of an effective campaign organization at his own installation.

c. Enlisting the participation and support of employee organization leaders, where possible.

d. Personal endorsement and follow-up through messages to all employees and contacts with management and supervisory staff.

6.42 *Advance Planning and Organization.* Advance planning and activation of the campaign organization requires:

a. Selecting a campaign chairman or project officer, division chairmen and keymen who are able and enthusiastic;

b. Briefing of management staff, campaign workers, and employee organization leaders on the policies of the Federal program and the educational material and administrative details involved in the campaign;

c. Clear assignment of responsibilities for general publicity, kick-off rallies, indoctrination meetings, and person-to-person solicitation—and for effective supervision, follow-up, and progress reporting at each echelon of the campaign organization.

These steps are primary and essential. A detailed guideline for effective campaigning is incorporated in the attachment to this chapter.

6.43 *Keyman Responsibilities.* A keyman is selected for the personal solicitation of about 25 employees, depending upon the unit organization. He or she should be chosen for leadership qualifications, compatibility with coworkers, and motivation toward successful preformance. Since a keyman is acting, in effect, as an agent of the recognized voluntary agencies in contacting potential contributors, it is important that each keyman be given a thorough briefing on the program and purpose of the participating voluntary agencies, preferably by representatives of the fund-raising agencies themselves. The keyman's responsibilities are to:

a. Personally contact each prospective contributor in the assigned group and provide the educational literature and contributor's card or envelopes appropriate to the campaign;

b. Explain the services performed by the voluntary agencies and answer any questions about them and the Federal fund-raising program;

c. Urge a generous gift, with the goal of 100 percent voluntary participation in mind; where appropriate call attention to local suggested giving guides and arrangements for pledges to be paid on the installment plan;

d. Collect employee contributions, forward them and make reports in accordance with local arrangements for the particular campaign.

6.5 DOLLAR GOALS, SUGGESTED GIVING GUIDES AND INSTALLMENT PLEDGES

6.51 *Dollar Goals.* In the Combined Federal Campaign, united fund and community chest campaigns, coordinated solicitations in non-federated communities and mixed areas, and in Red Cross campaigns in the domestic area, the local Federal agency head may accept an equitable dollar goal representing his installation's share of the overall dollar goal for the community. When so accepted, the dollar goal for the installation may be allocated in the form of subgoals to principal divisions of the installation. The assignment of a dollar goal to an individual potential contributor is absolutely prohibited. Dollar goals are not authorized in the National Health Agencies and International Services Agencies campaigns.

6.52 *Suggested Giving Guides.* In campaigns which have dollar goals, campaign materials may include what the voluntary agencies consider one's suggested share of responsibility toward the success of the campaign. These suggestions are developed by the soliciting agencies for the giver's guidance and education, and are permissible in the Federal program. However, there shall be no requirement that individual employees meet such guides when making gifts, and care should be taken to see that the suggested giving guide is not misrepresented as an individual "assessment" or "quota."

6.53 *Installment Pledges.* In campaigns which have dollar goals, the voluntary agencies may provide for deferred payment of contributions through installment pledges.

6.6 CONFIDENTIAL CONTRIBUTIONS

6.61 *Policy.* The privilege of each Federal contributor to disclose his gift or keep it confidential is guaranteed in all campaigns. This right of privacy is safeguarded through the contributor's option to use a sealed envelope in making his donation, whether by cash, check or pledge. He need not place his name on the envelope and it will not be opened until received by the central receipt and accounting person. No effort may be made by any Federal official or employees to determine the amount of a contribution submitted in a confidential manner.

6.62 *Keyman Procedures.* 6.621 *Solicitation.* Each potential giver must be given full opportunity to exercise his option to disclose the amount of his gift or keep it confidential. No action which might be coercive or contrary to the principles of true voluntary giving is permitted.

6.622 *Collection and Recording.* When a contributor makes his gift by sealed envelope, with or without his name on it, the keyman will preserve the confidentiality of the gift. He will only verify that the contributor's envelope bears the appropriate department or agency identification, and will write it on if necessary, in order to insure its safe transmittal and accountability. Where an individual receipt is required by campaign procedures, he will furnish the contributor a receipt leaving blank the amount of the gift. The keyman will forward the sealed envelopes in his Keyman Envelope. When sealed envelopes do not bear the contributor's name, the keyman will not list the name on his contributor's list or tally sheet but merely show the number of such anonymous contributions.

6.63 *Reports from Voluntary Agencies.* The feedback reports from voluntary agencies will show the total amount of contributions, including the total in sealed envelopes. Voluntary agency reports will not show the amounts of individual contributions.

6.7 GENERAL PRIVACY OF CONTRIBUTIONS

The amounts of individual donations will not be made public or revealed to other personnel except in connection with the routine collection and forwarding of contributions and installment pledges. To avoid any possibility of coercive persuasion aimed at increasing an individual's gift, Federal officials or employees will not prepare or utilize for solicitation purposes lists of individuals revealing their previous gifts. Voluntary agencies will not publicize lists of Federal contributors showing the amounts of their donations.

Agency campaign chairmen, keymen, and other campaign workers should take whatever actions or measures necessary to insure that these guidelines are followed in the conduct of the campaign within their agency.

6.8 PRIVACY ACT REQUIREMENTS

Public Law 93-579 (Privacy Act of 1974), which is intended to provide safeguards for individuals against unnecessary and unwarranted invasions of privacy, applies to systems of records under the control of any agency from which information is retrieved by the name of an individual or by some identifying number, symbol or other identifying particular assigned to the individual. Section 6.7 of this Manual includes specific prohibition against Federal officials or employees preparing or utilizing lists of individuals revealing their previous gifts. Keymen or others in Federal agencies should not retain in their possession any records of contributions collected and forwarded through compaign channels to the central receipt and accounting point. It should be clearly understood that except for payroll withholding authorizations, no systems of records as contemplated by the Privacy Act are prescribed or even recommended in connection with the Federal fund-raising program.

The CFC pledge form, when used to authorize payroll deduction, becomes an agency record maintained in a system of records. The name and composition of such a system will likely vary among agencies, but it generally includes various pay records which would fall within the scope of the Privacy Act. Accordingly, the maintenance of the pledge form as a record authorizing payroll deductions should be acknowledged as a record which meets the Privacy Act criteria.

Further, the pledge form is subject to section 7 of the Privacy Act since it does solicit social security numbers. The number is not needed on the form in all cases; it is required only when (1) payroll deductions are authorized, and (2) the social security number is required by the agency for payroll identification purposes.

A Privacy Act notice designed to comply with the requirements of the law will be printed on an item of campaign material that remains with the employee; for example, the contributor's leaflet or a portion of the pledge card that will be left with the contributor. It should not be printed on the pledge card itself which is sent to the payroll office, or on the card which is forwarded to the central receipt and accounting point. The required notice is as follows:

PRIVACY ACT NOTICE FOR:

CSC 804, Combined Federal Campaign Pledge Form

GENERAL

This information is provided pursuant to Public Law 93-579 (Privacy Act of 1974), December 31, 1974, for individuals who complete the pledge form for Combined Federal Campaign contributions.

AUTHORITY

Executive Order 10927, March 18, 1961, authorized the Civil Service Commission to make arrangements for national voluntary health and welfare agencies to solicit funds from Federal employees and members of the armed forces at their places of employment or duty stations.

Public Law 87-304, September 26, 1961, provides authority for the head of each department to establish procedures under which civilian employees are permitted to make allotments and assignments of amounts from their compensation.

PURPOSES AND USES

This form is used as the authority to make deductions from employees' compensation and transmit such amounts to the organizations they designate. This information will be disclosed to payroll office personnel and personnel in the Department of the Treasury, Division of Disbursements.

EFFECTS OF NONDISCLOSURE

The disclosure of this information is voluntary; however, payroll deductions and payments to organizations cannot be made without a completed form.

INFORMATION REGARDING DISCLOSURE OF YOUR SOCIAL SECURITY NUMBER UNDER PUBLIC LAW 93-579 SECTION 7(b)

Disclosure by you of your social security number may be deemed mandatory for the purpose of payroll deductions for contributions to charitable organizations under the Combined Federal Campaign. Solicitation of the social security number is authorized under provisions of Executive Order 9397, dated November 22, 1943.

6.9 RAFFLES, LOTTERIES AND OTHER SPECIAL PROCEDURES PROHIBITED

The program for fund-raising on the job has only one authorized procedure: personal solicitation of each potential contributor by designated keymen. Raffles, lotteries, carnivals, benefits and other special fund-raising procedures are contrary to Federal policy and are prohibited.

6.10 CAMPAIGN MATERIALS

6.101 *Furnished by Voluntary Agencies.* All educational material and operational forms for Federal campaigns must be furnished by the participating voluntary agencies.

6.102 *Provisions for Confidential Giving.*

a. The campaign literature and individual contributor's card must notify the contributor of his right and option to enclose his gift and pledge card in a sealed envelope. He may use any envelope for this purpose. The voluntary agencies are not required to furnish envelopes for individual contributors. If the required notice is not contained in the material furnished by the voluntary agencies,[3] Federal agencies should provide this notice by preparing an insert to the materials or arranging for oral instructions by the keymen. The provision involved is an express requirement of E.O. 10927.

b. In the National Health Agencies and International Service Agencies Campaigns, the voluntary agencies will provide an envelope for each potential giver which shall bear on it a request to the contributor to enclose his gift and seal the envelope.

6.103 *Recording and Forwarding Contributions.* The campaign literature should contain instructions to agency

[3] This may occur through error or oversight, or in locations where so few Federal employees are involved that it is impractical for the voluntary agencies to provide a special notice.

campaign chairmen and keymen on the procedures for recording and forwarding contributions. Contributors lists or tally sheets, keyman's envelopes, and campaign report envelopes should bear printed instructions for their use.

ATTACHMENT—CAMPAIGN GUIDELINES FOR VOLUNTARY GIVING

The policies for fund-raising in the Federal service recognize the importance of voluntary agencies in our American way of life, and the opportunity for employees to know about them and to give generously toward their support. At the same time, as set forth in Executive Order 10927, these policies stress the importance of true voluntary giving and establish certain individual safeguards such as the option of disclosing one's gift or keeping it confidential by the use of a sealed envelope, and the prohibition against assigning a special dollar goal or quota to an individual.

Any successful fund drive requires an enthusiastic campaign. But administrative and campaign officials, supervisors and keymen must be familiar with all of the provisions of the Federal program in order to know where to draw the line between proper and improper methods.

It is approved practice for management officials to call employees together, explain the need for and use of the funds being solicited and urge employees to give generously—as much as they can afford. Where there are dollar goals for the campaign, the distribution of a suggested giving guide, based on employee pay levels, is also approved practice and the guide is generally welcomed by employees as an indication of what might be a fair contribution. Difficulty arises if the suggested contributions outlined on suggested giving guides are confused or interpreted as "quotas." Even though two employees are in the same salary bracket, it does not necessarily follow that they are either able or inclined to make the same contribution. Some give considerably more—others, less.

There is no place in the Federal fund-raising program for force or coercion. Campaigns must be conducted through an intensive program of employee information about the needs for and use of the solicited funds and by a strong appeal for contributions based on the contributor's ability and willingness to give voluntarily. In the final analysis, each employee must be the sole judge of what he can and will contribute and whether or not he wishes to keep the amount of his contribution confidential.

PLEASE STUDY AND APPLY THE FOLLOWING SUGGESTIONS:

I. *Agency or Installation Heads, Campaign Chairmen, and Division Campaign Chairmen*

A. Familiarize yourself personally with: (1) the fundamentals of the Federal fund-raising program and its policies, and (2) the approved campaigns and the work of the participating voluntary agencies.

B. Make sure that both the President's Message on the campaign and the issuance from the head of your department or agency are dispersed to every employee well in advance of the solicitation for funds.

C. Activate your agency's regular fund-raising organization down to the last keyman. Carefully select project personnel and keymen who are interested, able and enthusiastic.

D. Arrange training sessions for all campaign leaders before the beginning of the campaign so that they know the program needs of the agencies, the basic philosophy behind the Federal plan, and the campaign mechanics.

E. Issue fact sheets to all keymen regarding work of the agencies participating in the particular campaign so that they may explain the program and services of the benefiting agencies.

F. Make it clear that the campaign is important official government business and not an informal duty to be shrugged off. Remember that this is a social and civil responsibility—human needs are at stake and can only be met if most people give generously.

G. Issue a personal memorandum to all employees urging them to familiarize themselves with voluntary agencies and their program and to contribute as generously as possible.

H. Utilize all public information channels and materials available to you so that each giver will understand the work of the agencies involved and the causes for which he is contributing. These should include informational bulletin board posters, house organs, campaign films, etc. Use the Press Kit materials before and during the drive. Work up special material based on eye-witness accounts of work of these agencies. Publish weekly progress reports.

I. Have a kick-off rally for campaign workers at the department, bureau or installation level at least one week before the opening of the campaign. Use key speakers and audio-visual materials.

J. Set a schedule of employee information meetings or rallies so that every employee is thoroughly briefed on the objectives, benefits, and needs of the private agencies in the campaign. Promote well-planned enthusiastic meetings within entire office divisions and units, using division heads, top supervisors and employee organization leaders.

K. In campaigns which have dollar goals, inform everyone of installation and division goals and furnish them with a suggested giver's guide when appropriate.

L. Encourage keymen to approach each employee individually and to make follow-up contact.

M. Discourage contacts with individual givers by other than designated keymen. Management officials or supervisors should always talk to givers in groups and never put an individual "on the spot."

N. Instruct campaign workers to avoid coercive pressure. If the keyman is interested and well-indoctrinated he can transmit this interest and enthusiam to those he solicits.

O. Start the campaign on time. Push it to an early conclusion. This will save staff time and lead to a better campaign.

P. Ask for weekly or biweekly progress reports and use coordinators to assure that the campaign remains active throughout the full period, if necessary to complete solicitation.

Q. Prepare a bar graph or other type chart for public display showing the progress of the campaign on a daily or weekly basis for each of the major campaign units.

R. Report final results to employees and make sure senior officials write "thank-you" letters to all those helping them in the campaign. Outstanding performance merits official commendation in fund-raising as it would in other official activities.

S. Survey a sampling of employees for their evaluation of the conduct of the campaign. As needed, act on the suggestions in planning the next campaign.

II. *Keymen*

A. Plan solicitation carefully. Begin it at a strategic time for your unit, after a rally or meeting, on a pay day. (Concentrating on pay days is sound if cash gifts are appropriate.) Allow plenty of time for call-backs in order to follow-up on those who are missed on the first go-around.

B. Contact everyone individually. Issue all appropriate educational and contributor's materials. Try to avoid more than one complete solicitation. The irritation caused by asking the same person a second or third time for his contribution can imply coercive pressure, can do harm to subsequent campaigns, and therefore, should be avoided.

C. Stress 100 percent participation. No one has to give but almost every one will want to give. Make the campaign a family affair with joint responsibility extending to the smallest giver.

D. Urge a generous gift in keeping with the employees' ability to give. (Let him know that only one appeal will be made for these agencies and that every gift counts.) Encourages payroll deduction giving. It is easier for the employee and provides better support to the campaign. Let the employee know that his gift goes to meet the needs of many agencies.

CHAPTER 7—NONDISCRIMINATION REQUIREMENTS

7.1 NONDISCRIMINATION STANDARD

Voluntary agencies recognized for fund-raising privileges within the Federal service must operate without discrimination and must carry out affirmative action programs to assure equal employment opportunity. This policy applies to persons served by the agencies, to the staffs of the agencies, and to membership on their governing boards. Operating without discrimination means that:

a. No person is excluded from service because of race, color, religion, sex, or national origin.

b. There is no segregation of those served on the basis of race, color, religion, or national origin.

c. There is no discrimination on the basis of race, color, religion, sex, or national origin with regard to hiring, assignment, promotion, or other conditions of staff employment.

d. The agency has a written plan for and is undertaking positive action to achieve equal employment opportunity for all persons in the filling of its staff positions. The plan must include elements such as: contacts with appropriate organizations in the community including minority group and women's organizations concerning the agency's employment needs; recruitment advertisements in minority group news media when advertising in the general media is used to fill jobs; self-identification as an equal employment opportunity employer in recruitment advertisements; and using only those employment agencies which do not discriminate on the basis of race, color, religion, sex, or national origin for making job referrals.

e. There is no discrimination on the basis of race, color, religion, sex, or national origin in membership on the agency's governing body.

7.2 EXEMPTIONS

Exemptions to the above requirements relating to religion or sex may be granted if a voluntary agency is organized for a bona fide purpose on a religious basis or if its purpose is reasonably related to

service of persons of a particular sex. National organizations requesting such exemptions are required to provide justification to the Civil Service Commission. Local organizations must request the appropriate exemption from the local field coordinating group. In considering a request for exemption, consideration will be given to the fundamental purpose of the organization and the reasonableness of the request in relation to this purpose. If such a request is denied by the local coordinating group, the agency should be informed of its right to ask for a review of the decision by the Civil Service Commission.

7.3 NONDISCRIMINATION ON BASIS OF HANDICAP OR AGE

In addition, voluntary agencies should not discriminate in employment, service, or membership on governing bodies on the basis of handicap or age, although reasonable limitations as to age for employment, service, or membership on a governing body may be made where age is a bona fide consideration.

7.4 VOLUNTARY AGENCIES AFFECTED

Every national or local voluntary health or welfare agency which solicits contributions from Federal employees or members of the Armed Forces at their place of employment or duty station must first provide satisfactory assurance that it follows a policy and practice of nondiscrimination. This requirement is applicable to:

a. A local united fund, community chest or other federated fund-raising organization which is authorized solicitation privileges under the provisions of Manual section 3.511, and each of its participating member agencies;

b. Each member agency of a coordinated solicitation which is authorized solicitation privileges under the provisions of Manual section 3.521;

c. The national office, and each State or local chapter of a national voluntary agency, which is authorized on-the-job solicitation privileges under the provisions of Manual section 3.532;

d. Each national or local voluntary agency which is authorized solicitation privileges in the overseas area under the provisions of Manual section 3.541; and

e. Each voluntary agency which is authorized off-the-job solicitation privileges under the provisions of Manual section 3.6.

7.5 ASSURANCE REQUIRED

7.51 *Form of Assurance.* Assurance of nondiscrimination shall be in writing and shall consist of:

a. A statement of policy by the agency's governing board (national or local board, as appropriate) covering the elements of nondiscrimination listed in the standard (7.1);

b. A certification that the agency's practices in fact conform with the standard; and

c. A certification that the national organization and each local chapter has prepared an affirmative action plan to assure equal employment opportunity.

Policy statements and certifications shall be sufficiently explicit to assure that the five elements of nondiscrimination listed in the standard are met. While no standard form or format is required, a sample form is shown at the end of this chapter.

7.52 *Filing Procedure.* a. *National Level.* A national voluntary agency which is required by the provisions of Manual section 5.4 to file application annually for independent solicitation privileges shall file a satisfactory assurance with respect to the nondiscrimination policy and practice of its national organization with the Office of the Chairman, Civil Service Commission, as part of its application for solicitation privileges.

b. *Local Level.* (1) *United Funds and Chests.* A local united fund, community chest or other federated fund-raising organization shall advise its member agencies (including the local Red Cross chapter when it raises funds in partnership with the local united fund or chest) of the nondiscrimination requirements and requirement of each agency for an affirmative action plan for equal employment opportunity. It shall also request each agency to furnish assurance of nondiscrimination as prescribed in 7.41 above. It shall receive such assurances and forward them in a group, with the policy statement and certification of the federated fund-raising organization itself, to the appropriate Federal official in its local campaign area.

(2) *American Red Cross.* Where a local Red Cross chapter participates as an independent agency outside of the local united fund, such chapter must have an affirmative action plan and furnish the necessary nondiscrimination certification as prescribed in 7.41 above.

(3) *National Voluntary Agencies.* Each local chapter or affiliate of a national voluntary agency [6] approved for Federal fund-raising privileges shall provide satisfactory assurance of nondiscrimination to the appropriate local Federal officials. Failure to submit proper certification will bar the local chapter or affiliate from participation in the appropriate local campaign.

7.53 *Recipient of Assurances Filed Locally.* Nondiscrimination assurances required at the local level shall be filed with the chairman of the local Federal coordinating group, or in the absence of such organization in the local area, with the head of the local Federal installation having the largest number of civilian and military personnel.

7.54 *Submission of Affirmative Action Plan.* National or local voluntary agencies, including chapters or affiliates of approved national organizations, must have available, for inspection, the affirmative action plan specified in Section 7.1d. On request, these plans must be submitted to appropriate Federal officials who may review the plans and require amendments thereto. Appropriate Federal officials may also request information concerning employment patterns and board membership on the basis of race, ethnic origin, and sex.

7.55 *When Further Assurance Is Required.* A national or local voluntary agency, chapter or affiliate which has filed satisfactory nondiscrimination assurance and has maintained such nondiscriminatory policy or practice is not required to file further assurance to continue its eligibility in subsequent years unless expressly requested by the appropriate Federal official. Further assurance may be required at any time at the option of appropriate local Federal officials or by the Office of the Chairman, Civil Service Commission.

7.6 ADMINISTRATION BY THE FEDERAL GOVERNMENT

7.61 *Responsibility for Administration.* The responsibility for administration of the nondiscrimination requirements at the national level is assigned to the Office of the Chairman, Civil Service Commission.

At the local level, each local Federal coordinating group is authorized and responsible for administration of the nondiscrimination requirements in its local area. In the absence of such an organization in the local area (county), the authority and responsibility is assigned to the head of the local Federal installation having the largest number of civilian and military personnel. At their discretion, a local Federal coordinating group may redelegate to an appropriate committee, and the head of a designated local Federal installation may redelegate to a subordinate official, such authority as is deemed appropriate.

The heads of Federal offices and installations shall permit the solicitation of employees or military personnel on the job, or "off the job" as defined in Manual section 3.6, but only on behalf of those voluntary agencies that the responsible Federal coordinating group or official have determined to be qualified under the nondiscrimination standard and related requirements.

7.62 *Acceptance of Nondiscrimination Assurances.* The appropriate Federal official in each local area, as designated above, will review the nondiscrimination assurances filed to determine if they meet the requirements. Such additions or amendments and recertifications as the Federal official considers necessary may be required from the voluntary agencies. He may also request the submission of affirmative action plans for review. The Federal official will notify the heads of all local Federal offices and installations of the receipt of satisfactory nondiscrimination assurances from all voluntary agencies which are otherwise eligible to solicit contributions from Federal personnel in the local area. Assurances will be retained as official records in the custody of the Federal official's office. The responsible local Federal official may request interpretation or advice from the Office of the Chair-

[6] Where International Service Agencies do not have local chapters or affiliates providing a service in the area, no local certification is required. The certification of the national office to the Civil Service Commission is sufficient.

man, Civil Service Commission, as needed.

7.63 *Disqualifications.* If a required nondiscrimination assurance is not filed with the appropriate local Federal official, or is filed but is determined to be unsatisfactory, the voluntary agency concerned shall not be permitted to solicit contributions from Federal personnel in the local area until satisfactory assurance is received. Similar action may also be taken by Federal officials where affirmative action plans have not been prepared or are considered unsatisfactory. [See below for appropriate action where a federated organization or a member agency of a federated organization fails to submit a satisfactory nondiscrimination assurance (Section(s) 7.64, 7.65).]

In the event that a voluntary agency files satisfactory assurance but there arises a question whether the agency's practices in fact meet the standard for nondiscrimination in this manual or whether the organization is carrying out an affirmative action plan for equal employment opportunity, the appropriate Federal official shall make such investigation as may be necessary. After providing the agency an opportunity to present evidence of satisfactory compliance, the Federal official shall make a determination whether Federal fundraising privileges in the local area will be granted or withheld from the agency. If a member agency of a federated organization is found not to be in compliance with the nondiscrimination requirements, local Federal officials must notify the Office of the Chairman for appropriate action as indicated in 7.65 below.

If a question regarding nondiscrimination practices or an affirmative action program is raised with respect to a voluntary agency which furnished its assurance to the Civil Service Commission, the appropriate Federal official will forward the question and all available related information to the Office of the Chairman, Civil Service Commission, for investigation.

Individual complaints of discrimination in employment against a voluntary organization are filed with Equal Employment Opportunity Commission since that agency has responsibility for enforcement of nondiscrimination by private employers.

7.64 *Where Federated Organization Fails to Submit Required Assurance.* If a local united fund, community chest or other federated organization does not file a satisfactory nondiscrimination assurance itself, or if the organization's practices are not in compliance with the nondiscrimination requirements, including the preparation of an acceptable affirmative action plan, the federated organization shall not be permitted to solicit contributions from Federal personnel in the local area. In such event the local area becomes a nonfederated community for purposes of Federal fund-raising. Member agencies of the federated organization which individually have met the nondiscrimination requirements will not be allowed to solicit independently. However, they may organize a coordinated solicitation in accordance with the provisions of Manual section 3.52.

7.65 *Where a Member Agency Included in a Federated Organization Fails to Submit Required Assurance.* Where one or more member agencies in a federated organization fails to file satisfactory nondiscrimination assurance, or where the agency's practices are not in compliance with the nondiscrimination requirements, including the preparation of an acceptable affirmative action plan, such agencies shall not be permitted to solicit contributions from Federal personnel in the local area. If such agencies continue as member agencies of the local fund despite failure to comply with the nondiscrimination requirements, the fund-raising privileges of the federated organization may be cancelled by the Office of the Chairman, U.S. Civil Service Commission. Notice will first be given to the federated group and to the United Way of America of intent to cancel unless corrective action is taken. Appropriate local Federal officials have the responsibility to notify the Office of the Chairman if any agency of a local united fund, community chest, or other federated organization fails to file a satisfactory nondiscrimination certification as called for in 7.51 above or whose practice is found not to be in compliance with the nondiscrimination requirements.

SAMPLE CERTIFICATE [1]

At a meeting of the governing board of (name of agency) held on (date) the board ( ) affirmed its policy of nondiscrimination as follows:

1. No person is excluded from service because of race, color, religion, sex, or national origin.

2. There is no segregation of persons served on the basis of race, color, religion, or national origin.

3. There is no discrimination on the basis of race, color, religion, sex, or national origin with regard to hiring, assignment, promotion or other conditions of staff employment.

4. The agency has a written plan for positive action to achieve equal employment opportunity for all persons in the filling of its staff positions including elements such as: contacts with various organizations in the community including minority group organizations concerning the agency's employment needs; recruitment advertisements in minority group news media when advertising in the general media is used to fill jobs; self-identification as an equal employment opportunity employer in recruitment advertisements; and the use of employment agencies which do not discriminate on the basis of race, color, religion, sex, or national origin.

5. There is no discrimination on the basis of race, color, religion, sex, or national origin in membership on the agency's governing body.

I certify that the practices of this organization conform to the policy of nondiscrimination stated above.

(Date) (President or other authorized official)

[FR Doc.76-37790 Filed 12-27-76;8:45 am]

[1] Certificate may be appropriately modified where exemption has been granted by the Civil Service Commission for agencies organized for bona fide purposes along religious lines or where service is restricted to members of a particular sex.

DEPARTMENT OF DEFENSE

Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (International Trade and Resources), ODAS (International Trade and Resources), OASD (International Security Affairs), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37972 Filed 12-27-76;8:45 am]

DEPARTMENT OF DEFENSE

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (International Economic Affairs), ODAS (International Economic Affairs), OASD (International Security Affairs), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37969 Filed 12-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner, Assistance Payments Administration, Social and Rehabilitation Service.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37970 Filed 12-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority to Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education,

and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner for Postsecondary Education, Office of Education.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.70-37971 Filed 12-27-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Thursday, January 13, 1977, at 9:30 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Technical discussion of analog to digital and digital to analog converters.

(4) Discussion of microprocessors.

(5) Nomination and election of a new Chairman.

EXECUTIVE SESSION

(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 8, 1976, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned wth matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Crder. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated: December 21, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

NOTICE OF DETERMINATION

In response to written requests of representatives of a substantial segment of the electronic industry, the Electronic Instrumentation Technical Advisory Committee was established by the Secretary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1) (Supp. V, 1975), to advise the Department of Commerce with respect to questions involving technical matters, worldwide availability, and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee, which currently has seven members representing industry and seven members representing government agencies, will terminate no later than October 7, 1977, unless extended by the Secretary of Commerce or his designee. All members of the Committee have the appropriate security clearances.

The Committee's activities are conducted pursuant to 50 U.S.C. App. 2404(c)(1), Pub. L. 94-362, 50 U.S.C. App. 5(b), Executive Order No. 11940, 15 CFR 390.1, the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975, and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the head of the agency (or his delegate) to which the committee reports determines in writing that all, or some portion, of the agenda of the meeting of the Committee is concerned with matters listed in section 552(b) of Title 5 of the United States Code. Section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, effective March 12, 1977, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the Advisory Committee reports, determines that such portion of such meeting may be closed to the public in accordance with 5 U.S.C. 552b(c).

Section 552(b)(1) of Title 5, United States Code, provides that information may be withheld from the public if it concerns matters specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy, and are in fact properly classified pursuant to such Executive Order. 5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

Notices of Determination authorizing the closing of meetings, or portions thereof, of the Electronic Instrumentation Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, were approved on March 12, 1974 for the Committee's first meeting on April 9, 1974; on April 25, 1974 for the meeting of May 9, 1974; on May 28, 1974, covering a series of meetings for the period May 28, 1974 through January 3, 1975; on December 16, 1974 for a series of meetings from January 4, 1975 through October 22, 1975; and also on September 29, 1975 for a series of meetings from October 23, 1975 to October 22, 1976.

In order to provide advice to the Department under the terms of its charter, the Committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the Committee and its formal subcommittees will be preparing recommendations for the Department's consideration relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive Order No. 11652, 3 C.F.R. 339 (1974). In order for the Committee and its formal subcommittees to provide required

advice to the U.S. Government, it will be necessary to provide the Committee and its formal subcommittees with such classified material. Therefore, the portions of the series of meetings of the Committee and of subcommittees thereof that will involve discussions of matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, must be closed to the public. The remaining portions of the series of meetings will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that those portions of the series of meetings of the Committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this determination, to October 6, 1977, from the provisions of section 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552(b)(1) and 5 U.S.C. 552b(c)(1). The remaining portions of the meetings will be open to the public.

Dated: December 8, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

Dated: December 1, 1976.

ALFRED MEISNER,
General Counsel.

[FR Doc.76-37820 Filed 12-27-76;8:45 am]

Domestic and International Business Administration

PRESIDENT'S EXPORT COUNCIL TASK FORCE ON EXPORT PROMOTION

Termination

Pursuant to section 14 of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that the President's Export Council Task Force on Export Promotion is terminated, effective December 31, 1975.

This Task Force was established in 1975 to review the export promotion programs and activities of the Department of Commerce and develop recommendations, including proposals for new programs, in this area for Export Council consideration.

The decision to terminate this Task Force on December 31, 1976, has been made for the reason that the Task Force has completed its review of the Department's export promotion programs and submitted its formal recommendations to the Export Council for its consideration. The objectives and duties identified in its charter having been accomplished, there is no need for continuation of the Task Force.

Dated: December 21, 1976.

ROBERT G. SHAW,
Acting Deputy Assistant Secretary for International Commerce.

[FR Doc.76-37975 Filed 12-27-76;8:45 am]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Rules For Allocation of Quotas For Calendar Year 1977 Among Producers Located in the Virgin Islands, Guam and American Samoa

On November 18, 1976, the Departments of Commerce and the Interior published a joint Notice of Proposed Rule Making under Public Law 89-805, setting out the proposed formula for allocation of 1977 watch quotas among producers located in the Virgin Islands, Guam and American Samoa (41 FR 50852 et seq.). Interested parties were invited to participate in proposed rule making by submitting their written views on or before December 8, 1976.

No substantive comments were received by the Departments in response to this invitation, and the Departments are accordingly publishing the proposed rules as final rules.

Watch producers located in the Virgin Islands, Guam and American Samoa must receive their initial quota allocation for calendar year 1977 to avoid any interruption in their assembly operations and to enable them to contract for their inventory requirements and to accept and fill purchase orders for their 1977 quota allocations. Accordingly, good cause exists for making the following rules effective January 1, 1977.

SECTION 1. Upon effective date of these rules, or a soon thereafter as practicable, each producer located in the Virgin Islands, Guam and American Samoa which received a duty-free watch quota allocation for calendar year 1976 and complied with all applicable rules, will receive an initial quota allocation for calendar year 1977 equal to 70 percent of the number of watch units assembled by such producer in the particular territory and entered duty-free into the customs territory of the United States during the first eight months of calendar year 1976. (See Section 9 for new entrant in Guam.)

SEC. 2. Each producer to which an initial quota has been allocated pursuant to Section 1 hereof must, on or before April 1, 1977, have assembled and entered duty-free into the customs territory of the United States at least 25 percent of its initial quota allocation. Any producer failing to enter duty-free into the customs territory of the United States on or before April 1, 1977, a number of watch units assembled by it in a particular territory equal to, or greater than, 25 percent of the number of units initially allocated to such producer for duty-free entry from that territory will, upon receipt of a show cause order from the Departments, be given an opportunity, within 30 days from such receipt, to show cause why the duty-free quota which it would otherwise be entitled to receive should not be cancelled or reduced by the Departments. Such a show cause order may also be issued whenever there is reason to believe that shipments through December 31, 1977, by any producer under the quota allocated to it for calendar year 1977 will be less than 90 percent of the number of units allocated to it. Upon failure of any such producer to show good cause, deemed satisfactory by the Departments, why the remaining, unused portion of the quota to which it would otherwise be entitled should not be cancelled or reduced, said remaining, unused portion of its quota shall be either cancelled or reduced, whichever is appropriate under the show cause order. The Departments may also issue a show cause order to any producer which, for a period of two or more consecutive calendar years, has failed through its Headnote 3(a) watch assembly operation to make a meaningful contribution to the economy of the territory and to the continued development of the duty-free watch assembly industry in the territory, when compared with the performance of the territorial duty-free watch assembly industry as a whole. Among the factors the Departments may consider in taking this action are the producer's utilization of quota, amount of direct labor involved in the assembly of watches and watch movements shipped duty-free into the customs territory of the United States, and the net amount of corporate income taxes paid to the government of the territory. Upon failure of the producer to show cause, deemed satisfactory by the Departments, why such action should not be taken, the firm's quota shall be cancelled and the eligibility of the firm for further allocations terminated. In the event of any quota cancellation or reduction under this section, or in the event a firm voluntarily relinquishes a part of its quota, the Departments will reallocate the quota involved, in a manner best suited to contribute to the economy of the territories, among the remaining producers: Provided, however, That if in the judgment of the Departments it is appropriate, applications from new firms may, in lieu of such reallocation, be invited for any part or all of any unused portions of quotas remaining unallocated as a result of cancellation or reduction hereunder or any quota voluntarily relinquished. Every producer to which a quota is granted is required to file a report (Form DIB-321P) on April 15, July 15 and October 15, of each year covering the periods January 1 to March 31, April 1 to June 30 and July 1 to September 30 respectively supplying all information specified on the report form, copies of which will be forwarded to each producer at its territorial address of record at least 15 days prior to the required reporting date. Copies of Form DIB-321P may also be obtained from the Special Import Programs Division, Office of Import Programs, U.S. Department of Commerce, Washington, D.C. 20230. Each producer to which a quota is granted will also report on Form DIB-321P any change in ownership and control which has occurred subsequent to the filing of an application for a watch quota on Form DIB-334P (see Section 10 below).

SEC. 3. Application forms will be mailed to recipients of initial quota allocations as soon as practicable and must be filed with the Departments on or before January 31, 1977. All data required

must be supplied as a condition for annual allocations and are subject to verification by the Departments. In order to accomplish this verification it will be necessary to representatives of the Departments to meet with appropriate officials of quota recipients in the insular possessions in order to have access to company records. Representatives of the Departments plan to perform this verification beginning on or about February 15, 1977, in Guam and American Samoa and beginning on or about March 1, 1977, in the Virgin Islands, and will contact each producer locally regarding the verification of its data.

SEC. 4. (Virgin Islands only). The annual quotas for calendar year 1977 for the Virgin Islands will be allocated as soon as practicable after April 1, 1977, on the basis of (1) the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1976, (2) the dollar amount of wages, up to a maximum of $13,200 per person, paid by such producer in the territory during calendar year 1976 to persons residing in the territory whose pay was attributable to its Headnote 3(a) watch assembly operation, and (3) the total dollar amount of income taxes paid by such producer in the territory during calendar year 1976 attributable to its Headnote 3(a) watch assembly operations, excluding penalty payments and less any income tax refunds and subsidies paid to such producer during calendar year 1976. In making allocations under this formula, a weight of 35 percent will be assigned to Headnote 3(a) production and shipment history, a weight of 50 percent will be assigned to wages paid as specified above, and a weight of 15 percent will be assigned to the total dollar amount of income taxes paid during calendar year 1976 and attributable to Headnote 3(a) watch assembly operations, with the exclusions and deductions specified above.

SEC. 5. (Guam only.) The annual quotas for calendar year 1977 for Guam will be allocated as soon as practicable after April 1, 1977, on the basis of the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1976, and the dollar amount of wages, up to a maximum of $13,200 per person, paid by such producer in the territory during calendar year 1976 to persons residing in the territory whose pay was attributable to its Headnote 3(a) watch assembly operation. In making allocations under this formula, 40 percent will be assigned to production and shipment history and 60 percent to wages as specified above.

SEC. 6. (American Samoa only.) The annual quota for calendar year 1977 will be allocated to the producer in the territory as soon as practicable after April 1, 1977. Policies relative to the allocation of quota in American Samoa are set forth in the Departments' notice of June 9, 1967 (32 FR 8316 et seq.).

SEC. 7. (Virgin Islands and Guam.) For purposes of allocating watch quotas for calendar year 1977 under Sections 4 and 5 above, any watches or watch movements shipped from the Virgin Islands or Guam during calendar year 1976 for duty-free entry into the customs territory of the United States against a producer's 1976 watch quota, and which were lost prior to entry into the customs territory of the United States, shall nevertheless be considered as having been entered into the customs territory for purposes of quota fulfillment: *Provided*, That the Departments have been satisfied that shipment was in fact made but lost prior to entry into the customs territory.

SEC. 8. (Guam only.) In view of the low level of utilization of quota during calendar year 1976, the Departments hereby set aside 150,000 units of the calendar year 1977 Guam quota for possible allocation to new firms. New firms may apply for the set-aside portion of the Guam quota on or before March 1, 1977, or such later date as may be established by the Departments through publication of a notice in the FEDERAL REGISTER. Applicants must complete applicable sections on Form DIB-334P, copies of which may be obtained from the address shown in Section 2 above, and must provide information regarding their experience in watch movement assembly and distribution; anticipated employment of local workers and proposed wage rates; watch movement assembly operations to be performed and types of movements to be assembled in the territory; estimated direct labor costs; anticipated capital investment in the territory; proposed source of financing; and plans for marketing movements assembled in the territory. (By "new firm" is meant an entity which has not heretofore been allocated a quota under Pub. L. 89-805 and which is completely separate from and unassociated with any present producer in terms of ownership and control.) Based on the Departments' evaluation of the information submitted by applicants, the Departments may allocate a part or all of the set-aside portion of the calendar year 1977 Guam quota among those applicants whose proposals, in the judgment of the Departments, offer the likelihood of the greatest contribution to the economy of the territory, and in such a manner as, in the judgment of the Departments, will best serve the interests of the territory. Any part or all of the set aside quotas not allocated under this provision may be reallocated among the 1977 Guam quota recipients in a manner best suited to contribute to the economy of the territory.

SEC. 9. (Guam only.) In the determination of calendar year 1977 initial and annual watch quotas for the new entrant in Guam to which a quota allocation was made pursuant to Section 8 of the Rules for Allocation of Watch Quotas for Calendar Year 1976 (40 FR 59767 et seq.), and which will not have a full year's operation as a basis for computation of a quota for calendar year 1977, the Departments shall take into account these circumstances and make appropriate adjustments.

SEC. 10. The rules restricting transfers of duty-free quotas issued on January 29, 1968 and published in the FEDERAL REGISTER on January 31, 1968 (33 FR 2399), are hereby incorporated by reference as applicable to transfers of quotas issued during calendar year 1977 except that detailed reporting of ownership and control will be reported on April 15, July 15, and October 15, 1977, on Form DIB-321P required in Section 2 above.

Any interested party has the right to petition for the amendment or repeal of the foregoing rules and may seek relief from the application of any of their provisions upon a showing of good cause under the procedures relating to reviews by the Secretaries of Commerce and the Interior (15 CFR 13).

Dated: December 22, 1976.

FRED M. ZEDER,
Director, Office of Territorial Affairs, U.S. Department of the Interior.

DONALD E. JOHNSON,
Deputy Assistant Secretary, Domestic and International Business Administration, Department of Commerce.

[FR Doc.76-38060 Filed 12-27-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES

Executive Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held February 4, 1977 at the Pentagon, Washington, D.C. from 9 a.m. to 4 p.m. and if necessary on February 5, 1977 at the Hotel Washington, 15th and Pennsylvania Avenue, Washington, D.C. from 9 a.m. to 12 p.m. The sessions will be open to the public.

The purpose of this meeting is to plan the program for the semi-annual meeting of the full Committee on April 13-17, 1977. Composed of 25 civilian women, DACOWITS provides the Department of Defense with assistance and advice on matters relating to women in the Armed Forces, to interpret to the public the role of and the need for servicewomen and to encourage the acceptance of military service as a career opportunity.

Members of the public will not be permitted to enter into the oral discussion conducted by the Committee members during the meeting; however, they will be permitted to reply to questions directed to them by members of the Committee. Questions from the public will not be accepted during the Executive Committee session.

Interested persons desiring to make oral presentations, submit written statements for consideration, attend the meeting or receive additional information

must contact Lucille B. Dion, Consultant to DACOWITS Secretariat, OASD (Manpower and Reserve Affairs), Room 2C263, The Pentagon, Washington, D.C. 20301, telephone (202) 695-5153 no later than January 24, 1977.

DECEMBER 22, 1976.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

[FR Doc.76-37965 Filed 12-27-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 663-1; OPP-210006]

KEPONE LEVELS IN CERTAIN SEAFOOD

Public Hearing

The Environmental Protection Agency recommended to the Food and Drug Administration action levels for Chlordecone (Kepone) in finfish, shellfish and crabs in the first quarter of 1976. The Agency did so with the proviso that a subsequent review of these action levels would take place following the 1976 fishing season in the Chesapeake Bay and the coastal waters of the East Coast, in which the results of the Federal and State monitoring programs for these commodities would be incorporated into the re-evaluation process. The Agency has received data from the Food and Drug Administration and the States of Maryland and Virginia regarding the levels of Kepone found in commodities during 1976, data from the National Marine Fisheries Service regarding catches of finfish in the Chesapeake Bay, and further information from the Virginia seafood industry regarding consumption of commercial finfish. The Agency is now preparing to review its original action level recommendations to FDA concerning these data.

Notice is hereby given, therefore, that pursuant to Section 21(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) et seq.), an informational hearing will be held to solicit comments and information relevant to the Agency's review of the action levels for Kepone in finfish, shellfish and crabs. Two hearings will be held:

January 24—Maryland State Highway Administration, Ground Floor Auditorium, 300 W. Preston, Baltimore MD 21201 at 10:00 a.m.

January 26—Sheraton Motor Inn, Imperial Room, Belvedere and Franklin Streets, Richmond VA 23220 at 10:00 a.m.

Two pertinent documents will be available for public viewing at the address given below after January 10: 1) an explanation of how the current action levels were determined and an assessment of the residue and consumption data submitted to the Agency in 1976 since this original determination; and 2) a document which addresses action levels from the point of view of risk and benefits attendant to varying levels utilizing an alternative risk extrapolation method.

Interested persons are invited to attend either of these meetings and submit oral or written statements if they so desire. A written copy of any oral remarks must be submitted at the time they are made; an advanced copy of such remarks need not be submitted. Written statements will be accepted at either of these meetings or may be mailed to the Office of Pesticide Programs at the address given below. Anyone wishing to attend these meetings is requested to contact Ms. Jan B. Wine for reservations by writing to the Federal Register Section (WH-569), Office of Pesticide Programs, Room 405 East Tower, 401 M St. SW, Washington, D.C. 20460, or by calling (202) 755-4854 by January 14. A schedule of witnesses will be available by January 19.

The comment period will close January 26, and a final recommendation to the Food and Drug Administration will be made by February 11, 1977. All written comments submitted with regard to this notice and subsequent meetings will be available for public inspection in the office of the Federal Register Section, Room 401 East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: December 22, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-38100 Filed 12-27-76;8:45 am]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for license as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

International Service Group, Inc., 1021 Grandview Drive, South San Francisco, CA 94080; Officers: Dan Kromat, President, John Allan, Vice President; Stan Rudney, Secretary/Treasurer.

Soto Forwarding Agency (A. X. Soto, dba), 223 Paredes Line Rd., Brownsville, Texas 78521.

International Moving Service, Inc., 5544 St. Charles Road, Berkeley, IL 60162; Officers: Karl H. Keller, President, Kaye Lori Keller, Secretary/Treasurer.

International Ocean Freight Forwarders (Frank W. Chinn, dba), 30 Amethyst Way, San Francisco, CA 94131.

Cargo, Inc., 5645 Gage, Rosemont, IL 60018; Officers: Ronnie L. Winston, Pres./Treas./Director, Gregory R. Frede, Vice President, Richard T. White, Secretary/Director, Juanita Frede, Asst. Sec./Asst. Treas.

Reacer Export International, 8502 Glen Vista, Houston, TX 77017; Officers: A. W. Cutler, President, Fred Reacer, Vice President, Michael G. Orlando, Director, Carolyn M. Orlando, Director, Victoria L. Clayton, Director.

Maclif Industries Corporation, 11211 Katy Frwy., Suite 605, Houston, TX 77079; Officers: Charles D. McDonald, President, B. F. Clifton, Vice President.

World Commerce Service Inc., 5361 Michigan Avenue, Rosemont, IL 60018; Officers: Edward J. Domek, President, Sandra L. Domek, Vice President.

Ala-Mar Shipping Co., Inc., 2101 N.W. 33rd Avenue, Miami, FL 33142; Officers: Ricardo M. Perdomo, President, Carlos J. Guerra, Vice President, Jose M. Guerra, Secretary/Treasurer.

Robbins, Inc., Box 1025, Miami Airport, Miami, FL 33148; Officers: Allen Robbins, President, Stuart Robbins, Vice President.

Corponic Shipping, Inc., P.O. Box 1125, Miami, FL 33148; Officers: Robert L. Larsh, Treasurer, David Grossman, Vice President.

Comet Air & Ocean Freight Forwarders, 5750 W. Century Blvd., Los Angeles, CA 90045; Officers: Larry Denkler, President, Terry Bealey, Vice Pres./Secretary.

James Lewis Garst, III, 805 Chatfield Court, Box 354, Jamestown, NC 27282.

Schrimer International Inc., 1804 N. Mitchell Avenue, Arlington Heights, IL 60004; Officers: Detleff F. Schirmer, President, Ruth Schirmer, Secretary/Treasurer.

By the Federal Maritime Commission.

Dated: December 22, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-38061 Filed 12-27-76;8:45 am]

JAPAN LINE, LTD., ET AL

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 17, 1970. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Agreement 10274, among Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, and Yamashita-Shinnihon Steamship Co., Ltd., provides for the pooling and apportionment of revenues earned by the parties from their joint containership operations between ports in Japan and ports on the U.S. Atlantic Coast.

By Order of the Federal Maritime Commission.

Dated: December 22, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-38062 Filed 12-27-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP72-142, (PGA77-3)]

CITIES SERVICE GAS CO.

Proposed Changes In FPC Gas Tariff

DECEMBER 20, 1976.

Take notice that Cities Service Gas Company (Cities Service) on December 8, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that pursuant to the Purchased Gas Cost Rate Adjustment provision in Article 21 of the FPC Gas Tariff, it proposes to increase its rates effective January 23, 1977, to reflect increased purchased gas costs. Cities Service states that such increased rates are reflected on Third Revised Sixteenth Revised Sheet PGA-1, as hereinafter described.

Third Revised Sixteenth Revised Sheet PGA-1 reflects a current adjustment of 7.96¢ per Mcf. Such adjustment reflects increases in purchased gas costs other than those increases resulting from Opinion No. 770-A which were included in Cities Service's filing in Docket No. RP72-142 (PGA77-2) effective on December 1, 1976, and one cent quarterly escalation to certain producers in payment for gas which qualified for the $1.42 rate under Opinion No. 770-A.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP72-142 and RP76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37858 Filed 12-27-76;8:45 am]

[Docket No. CP77-31]

COLUMBIA GULF TRANSMISSION CO. AND TENNECO, INC.

Application

DECEMBER 14, 1976.

Take notice that on December 7, 1976, Columbia Gulf Transmission Company and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicants), Post Office Box 683, Houston, Texas, 77001 and Post Office Box 2511, Houston, Texas, 77001, respectively, filed a first amendment to their application in Docket No. CP77-31, for the purpose of authorizing Applicants to deliver transportation gas to Amoco Production Company (Amoco) at an additional point of redelivery in Section 49, Township 6 South, Range 2 East, St. Landry Parish, Louisiana.

Applicants state that their original Application in Docket No. CP77-31, filed on October 26, 1976, requested authorization to transport gas for Amoco and redeliver such gas to Amoco at a point of redelivery in Section 18, Township 13 South, Range 1 East, Vermilion Parish, Louisiana. By an amendment dated December 6, 1976, an additional point of redelivery was added, which is located in Section 49, Township 6 South, Range 2 East, St. Landry Parish, Louisiana. In the event this additional point of redelivery is utilized, an additional rate based on cost of service, will be charged Amoco for the additional transportation service.

Applicants propose no other changes in their application and same remains unchanged except as set forth above.

Any persons desiring to be heard or to make any protest with reference to said amendment should on or before January 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37859 Filed 12-27-76;8:45 am]

[Docket Nos. CI75-119 and RI75-5]

WILLIAM A. JENKINS (OPERATOR), ET AL.

Requests for Waiver

DECEMBER 16, 1976.

Take notice that on November 25, 1976, William A. Jenkins (Operator), et al. (Jenkins), Suite 808, Expressway Terrace Building, 2601 Northwest Expressway, Oklahoma City, Oklahoma 73112, filed a request for waiver of § 157.40(c) of the Commission's regulations in order to make sales of natural gas that are the subject of the above Dockets to Champlin Petroleum Company under Jenkins' small producer certificate at the rate authorized in the above Dockets. Jenkins was issued a small producer certificate in Docket No. CS76-826 on August 4, 1976.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37857 Filed 12-27-76;8:45 am]

[Docket No. ER77-103]

BLACKSTONE VALLEY ELECTRIC CO.

Tariff Change

DECEMBER 20, 1976.

Take notice that on December 8, 1976, Blackstone Valley Electric Company ("Blackstone"), tendered for filing a proposed Supplement No. 4 to its Rate Schedules FPC Nos. 19 and 20 which involve the use of Blackstone transmission facilities in northern Rhode Island by Montaup Electric Company and The Narragansett Electric Company. The Supplements, which are proposed to become effective on December 1, 1976, would have the effect of increasing Blackstone's revenues by less than $50,000.

Copies of this filing were served upon the affected customers, the Massachusetts Department of Public Utilities and the Rhode Island Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of

practice and procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before December 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37993 Filed 12-27-76;8:45 am]

[Project No. 2734]

CAROLINA POWER & LIGHT CO.

Application for Surrender of Preliminary Permit

DECEMBER 20, 1976.

Notice is hereby given that Application for Surrender of Preliminary Permit has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by the Carolina Power & Light Company (Correspondence to: William E. Graham, Jr., Esquire, Vice President and General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602 and Mr. P. Howe, Manager-Technical Services, Carolina Power & Light Company, 336 Fayetteville Street, Raleigh, North Carolina 27502) for the proposed Madison County Pump Storage Project No. 2734, which would have been located in Madison County, North Carolina and Sugar Camp Branch of Big Pine Creek and Pawpaw Creek, tributaries of the French Broad River.

On December 12 ,1974, the Commission issued an order issuing preliminary permit to Carolina Power & Light Company (Permittee) for a period of 36 months to study the feasibility of the proposed 2,000 MW Madison County Pumped Storage Project. The Permittee states that its studies have revealed that the development of this project would not be economically feasible for the company in the foreseeable future; consequently, on September 3, 1976, Permittee filed an application for surrender of the permit.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38003 Filed 12-27-76;8:45 am]

[Docket No. RP72-142; (PGA77-3)]

CITIES SERVICE GAS CO.

Proposed Changes In FPC Gas Tariff

DECEMBER 20, 1976.

Take notice that Cities Service Gas Company (Cities Service) on December 8, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that pursuant to the Purchased Gas Cost Rate Adjustment provision in Article 21 of the FPC Gas Tariff, it proposes to increase its rates effective January 23, 1977, to reflect increased purchased gas costs. Cities Service states that such increased rates are reflected on Third Revised Sixteenth Revised Sheet PGA–1, as hereinafter described.

Third Revised Sixteenth Revised Sheet PGA–1 reflects a current adjustment of 7.96¢ per Mcf. Such adjustment reflects increases in purchased gas costs other than those increases resulting from Opinion No. 770–A which were included in Cities Service's filing in Docket No. RP72–142 (PGA77–2) effective on December 1, 1976, and one cent quarterly escalation to certain producers in payment for gas which qualified for the $1.42 rate under opinion No. 770–A.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP72–142 and RP76–135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37988 Filed 12-27-76;8:45 am]

[Docket No. ER77-104]

CONNECTICUT LIGHT AND POWER CO.

Purchase Agreement

DECEMBER 20, 1976.

Take notice that on December 10, 1976, Take notice that on December 10, 1976, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units, dated November 1, 1976 between (1) CP&L and The Hartford Electric Light Company (HELCO), and (2) Middleborough Gas and Electric Department (MG&ED).

CL&P states that the Purchase Agreement provides for a sale to MG&ED of a specified percentage of capacity and energy from five gas turbine generating units (Norwalk Harbor, Devon, South Meadow 10, Middletown and Torrington Terminal) during the period from November 1, 1976 to April 30, 1977 together with related transmission service.

CL&P states that questions as to MG&ED's Capability Responsibility Obligation, under the terms of the New England Power Pool (NEPOOL) Agreement, during the Term of this Purchase Agreement affected the amounts of gas turbine capacity that could be purchased by MG&ED and thus delayed execution of the agreement until a date which prevented the filing of such rate schedule more than thirty days prior to the proposed effective date.

CL&P therefore requests that, in order to permit MG&ED to receive urgently needed capacity, the Commission, pursuant to § 35.11 of its regulations, waive the thirty-day notice period and permit the rate schedule filed to become effective on November 1, 1976.

CL&P states that the capacity charge for the proposed service was a negotiated rate, the monthly transmission charge is equal to one-twelfth of the annual average unit cost of transmission service on the Northeast Utilities (NU) system determined in accordance § 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts of winter capability which MB&ED is entitled to receive, reduced to give due recognition of the payments made by MG&ED for transmission services on intervening systems, and the variable maintenance charge was arrived at through negotiations.

CL&P requests an effective date of November 1, 1976 for the MG&ED agreement.

HELCO has filed a certificate of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut and MG&ED, Middleborough, Massachusetts.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 5, 1977. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37994 Filed 12-27-76;8:45 am]

[Docket No. RP72-157; (PGA77-3)]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes In FPC Gas Tariff

DECEMBER 21, 1976.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on December 9, 1976 tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, pursuant to its PGA clause for rates to be effective January 1, 1977. The proposed rate increase would generate $24.2 million annually in additional jurisdictional revenues.

Consolidated states that the PGA filing was triggered by rate increases filed by Tennessee Gas Pipeline Company, Texas Eastern Transmission Corporation and Texas Gas Transmission Corporation, all for effectiveness January 1, 1977.

Consolidated is requesting a waiver of § 154.22, Notice requirements, of the Commission's Rules and Regulations, stating that it did not receive its supplier rates in sufficient time to make a timely filing. In addition Consolidated requests a waiver of any other of the Commission's Rules and Regulations in order to permit the proposed rates shown on Eighteenth Revised Sheet Nos. 8 and 9 to become effective January 1, 1977.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37997 Filed 12-27-76;8:45 am]

[Docket No. ER77-101]

EL PASO ELECTRIC CO.

Supplemental Agreement

DECEMBER 20, 1976.

Take notice that on December 6, 1976, El Paso Electric Company (El Paso Electric) tendered for filing a supplement to its Export Rate Schedule FPC No. 20 to extend the term thereof to March 31, 1977.

El Paso Electric states that on November 26, 1976 it executed a supplemental agreement with the Comision Federal de Electricidad (CFE), providing for an extended term for its electric service to CFE authorized by the Commission's Order issued October 9, 1970, in Docket No. IT-5762. El Paso Electric states that the filing requests no change in the terms of electrical service previously authorized by the Commission on October 9, 1970, which, with the proposed rate filed with the Commission on November 19, 1976, in Docket No. ER77-69, will have no effect on its other jurisdictional customers. El Paso Electric requests that the supplemental agreement be made effective on November 26, 1976, the date agreed upon by the parties therein.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 3, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37980 Filed 12-27-76;8:45 am]

[Docket No. ER77-68]

FLORIDA POWER & LIGHT CO.

Filing of Agreement

DECEMBER 20, 1976.

Take notice that Florida Power & Light Company (FP&L), on December 2, 1976, tendered for filing a Contract for Interchange Service between FP&L and Utilities Commission of the City of New Smyrna Beach, Florida (New Smyrna), dated December 23, 1975. FP&L states that this contract is identical to the contract which was appended to the settlement agreement entered into between FP&L and New Smyrna in FPC Docket Nos. E-8008 and ER76-211, filed with the Commission on February 24, 1976. The settlement agreement was accepted by the Commission by Order issued July 6, 1976.

FP&L states that the rates for service contained in the service schedules attached to the contract conform to interchange agreements for the type of service described therein. Special cost of service studies were not prepared in connection with the derivation of these rates.

Service to New Smyrna under the attached contract is expected to commence on or about December 20, 1976, according to FP&L. FP&L requests that the contract be accepted for filing effective as of the date service does commence. FP&L states that it will notify the Commission of the date service actually commences. FP&L also states that service has been made on New Smyrna in accordance with Section 35.2(d).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37983 Filed 12-27-76;8:45 am]

[Docket No. ER76-169]

GREEN MOUNTAIN POWER CORP.

Filing of Amendment

DECEMBER 20, 1976.

Take notice that, on December 13, 1976, Green Mountain Power Corporation (Green Mountain) tendered for filing an amendment to its September 24, 1975, contract with the Holyoke Gas and Electric Department of the City of Holyoke, Massachusetts (Holyoke), which is designated as Amendment No. 1 to said contract. By this amendment, the terms of the contract are sought to be extended through the following periods:

May 1, 1978 through October 31, 1978, May 1, 1979 through October 31, 1979, May 1, 1980 through October 31, 1980, May 1, 1981 through October 31, 1981.

With its tender, Green Mountain submitted a copy of Amendment No. 1, which was executed by both Green Mountain and Holyoke and is dated October 19, 1976.

Green Mountain stated that a copy of the filing was sent to Holyoke and to the Vermont Public Service Board.

Any person desiring to be heard or to make protest with reference to this filing should, on or before January 5, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing and supporting documents are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37979 Filed 12-27-76;8:45 am]

[Project No. 2004]

HOLYOKE WATER POWER CO.

Application for Approval of Eastment Over Project Lands

DECEMBER 21, 1976

Public notice is hereby given that an application was filed on October 27, 1976, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, By Holyoke Water Power Company (Correspondence to: Mr. Leon E. Maglathlin, Vice President, Holyoke Water Power Company, One Canal Street,, Holyoke, Massachusetts 01040; and Maurice L. Zilber, Esq., Peabody, Brown, Rowley & Storey, One Boston Place, Boston, Massachusetts 02108) for Commission approval of the grant of an easement over certain lands of the Hadley Falls Project, FPC No. 2004, to the Town of South Hadley, Massachusetts, for the construction, operation, and maintenance of a sanitary sewer line. The affected project lands are located in the Town of South Hadley, Hampshire County, Massachusetts, on the Connecticut River.

The subject easement would permit installation of 730 feet of 30-inch-diameter prestressed concrete pipe in the bed of the South Hadley Canal, and approximately 1,000 feet of 24-inch-diameter reinforced concrete pipe along the shore of the Connecticut River within the project boundary. The sewer line would transport sewage from the northern and central parts of the Town of South Hadley to a wastewater treatment plant near the southern town limits. A safety valve would be provided in the line for the protection of downstream areas in the event of a pipe rupture.

The U.S. Environmental Protection Agency and the Commonwealth of Massachusetts, Division of Water Pollution Control have jointly issued National Pollutant Discharge Elimination System Permit No. MA100455 to the Town of South Hadley pursuant to Section 402 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1342. This permit outlines the timetable pursuant to which the town must proceed with the construction under the approved water pollution control program.

Applicant has requested the shortened procedure provided for under Section 1.32 (b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 9, 1977, file with the Federal Power Commission, 825 N. Capitol St. N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. § 825g and § 825h, and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38000 Filed 12-27-76;8:45 am]

[Docket No. ES-77-4]

IOWA PUBLIC SERVICE CO.

Application

DECEMBER 20, 1976.

Take notice that on November 17, 1976, Iowa Public Service Company (Applicant) filed an application seeking an order pursuant to §204 of the Federal Power Act authorizing the issuance of up to 1,000,000 shares of Common Stock (par value $5 per share) and of 150,000 shares of Class A Preferred Stock without par value. Applicant proposes to sell the New Common and the New Preferred at competitive bidding in accordance with the applicable requirements of §34.1(a) of the Commission's regulations.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

Applicant proposes to use the proceeds from the issuance of the securities to reduce short-term loans incurred and to be incurred prior to the sale of the securities to secure funds for construction purposes and to meet expenditures for the construction program.

Any person desiring to be heard or to make any protest with reference to said application should, on or before January 4, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37996 Filed 12-27-76;8:45 am]

[Docket No. RM75-14]

JURISDICTIONAL SALES OF NATURAL GAS

Order Extending Period for Producer Rate Filings Under Opinion No. 770-A

DECEMBER 20, 1976.

In the matter of National rates for jurisdictional sales of natural gas dedicated to interstate commerce on or after January 1, 1973, for the period January 1, 1975, to December 31, 1976.

On November 5, 1976, the Commission issued its Opinion No. 770-A, modifying in part Opinion No. 770. Therein, the Commission reduced the rate previously prescribed in Opinion No. 770 from $1.01 per Mcf to $0.93 per Mcf, plus a 1 cent per annum escalator, for 1973–1974 biennium gas, and clarified the applicability of the rates prescribed. The Commission required all producers to either amend their original rate filings in accordance with such revisions or to file an affidavit indicating that their prior rate filings were in accordance with the policy enunciated in Opinion No. 770-A. Such amended filings or affidavits were to be filed by November 12, 1976.

After a preliminary analysis of the rate filings submitted pursuant to Opinion No. 770-A, it is apparent that larger producers were able to secure copies of that opinion in time to comply with the required filing date. However, certain smaller producers,[1] which relied upon receipt of mailed copies of Opinion No. 770-A, were unable to make timely filings within the limited period provided in that opinion.

In order to avoid any inequity arising from the delay of notice of the required filing, we will provide a grace period within which contractually authorized rate filings will be accepted. Any producer filing made on or before November 30, 1976, will be nunc pro tunc and will be treated as having been filed by November 12, 1976.

The pipeline tracking filings presently reflect producer purchases timely filed pursuant to Opinion No. 770-A. Since adoption of a grace period would permit additional producer increases to be retroactive to July 27, 1976, the pipeline purchasers will incur additional gas purchase costs which cannot be recouped

[1] This does not include "small producers" who are exempt from such filing requirements under § 157.40 of the Commission's Regulations.

until their next PGA filings. Therefore, any affected pipeline purchasers shall carry these additional gas purchase costs with appropriate interest until their next regular PGA filing, unless they can show that such costs warrant approval of an immediate special tracking filing.

The Commission orders. (A) The November 12, 1976 filing date for contractually authorized increased rate filings, as provided in Ordering Paragraph (B) of Opinion No. 770–A, is hereby extended to November 30, 1976.

(B) Any jurisdictional pipeline company affected by the extension of the filing period referenced in paragraph (A) above, shall carry the additional purchased gas costs, with appropriate interest, until their next regular PGA filing.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37976 Filed 12–27–76;8:45 am]

[Docket No. ER77–106]

KANSAS CITY POWER & LIGHT CO.

Filing of Change in Rate Schedule

DECEMBER 20, 1976.

Take notice that on December 13, 1976, Kansas City Power & Light Company ("KCPL") tendered for filing a Municipal Wholesale Firm Power Contract dated November 1, 1976, between KCPL and the City of Armstrong, Missouri. KCPL requests an effective date thirty (30) days after filing. The Contract terminates the Municipal Wholesale Firm Power Contract, dated October 3, 1976, KCPL Rate Schedule FPC No. 62, and provides for rates and charges for wholesale firm power service by KCPL to the City of Armstrong.

KCPL states that the proposed rates are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Power Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20246, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 7, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37981 Filed 12–27–76;8:45 am]

[Project No. 2640]

KANSAS CITY STAR CO.

Application for Use of Project Property

DECEMBER 20, 1976.

Public notice is hereby given that application for approval of use of project property was filed on October 14, 1976, and supplemented on November 4, November 11, and November 16, 1976, under the Federal Power Act (16 U.S.C. 791a–825r) by The Kansas City Star Company, Flambeau Paper Division (correspondence to: Mr. Norman G. Hoefferle, President, The Flambeau Paper Company, Park Falls, Wisconsin 54552) for its constructed Upper Hydro-Electric Project, FPC No. 2640, located on the North Fork of the Flambeau River in the City of Park Falls, Price County, Wisconsin. The Licensee seeks permission to construct a fire access road, bridge, and blow tank along the west bank of the powerplant headrace, within the project boundary.

The access road would extend 230 feet along the canal and would require riprapping of that section of the canal bank. The bridge, 15 feet in width and 90 feet in length, would be supported over the water on bearing piles and would connect the access road with the blow tank. The blow tank would be built partly on shore and partly on sand and/or gravel fill placed behind sheet piling in the headrace. Maximum dimensions of the blow tank foundation and necessary working area would be 47 feet by 27 feet. The blow tank and access road would be integral portions of Licensee's proposed counter-current, pulp-washing installation, which is necessary in order to comply with the pollution abatement program ordered by the Wisconsin Department of Natural Resources (Permit No. 0003212) to meet the prescribed pollution limits set by the United States Environmental Protection Agency by June 30, 1977, The effluent from the treatment plant will be discharged into the powerhouse intake just above the No. 1 water wheel by a pipeline about 388 feet long which will be located within the project boundary.

Applicant has requested the shortened procedures pursuant to Section 1.32(b) of the Commission's Regulations under the Federal Power Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 31, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. §§ 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b), as amended by Order No. 518 a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard protest or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised further notice of hearing will be given.

Under the shortened procedure herein provided for unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the earing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–38002 Filed 12–27–76;8:45 am]

[Docket No. RP73–23; (PGA77–4a)]

LAWRENCEBURG GAS TRANSMISSION CORP.

Filing of Substitute Gas Tariff Sheets

DECEMBER 20, 1976.

Take notice that on December 10, 1976 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two (2) substitute gas tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on December 7, 1976, proposed to become effective January 1, 1977 and identified as follows:

Substitute Seventh Revised Sheet No. 4, and Substitute Sixth Revised Sheet No. 18.

The proposed changes contained therein would increase revenues from jurisdictional sales by $183,656 as compared to revenues at the current rates in effect since December 1, 1976, based on the 12 months ending October 31, 1976.

Lawrenceburg states that, pursuant to the purchased gas adjustment (PGA) provision in its FPC Gas Tariff, First Revised Volume No. 1, it filed on November 26, 1976 Seventh Revised Sheet No. 4 and Sixth Revised Sheet No. 18 in order to track a proposed increase in its cost of gas purchased from Texas Gas Transmission Corporation (Texas Gas) filed on November 24, 1976 and proposed to become effective January 1, 1977. On December 6, 1976 Texas Gas filed to revise its proposed January 1, 1977 rates because of a change in the underlying rates of its suppliers, thereby prompting Lawrenceburg to file substitute tariff sheets as noticed herein.

Lawrenceburg requests an effective date of January 1, 1977 on its proposed tariff sheets and requests that the Com-

mission waive its notice requirements, as required, in order that its proposed tariff sheets can become effective on that date.

Lawrenceburg states that copies of this filing have been mailed to its two wholesale customers and to the interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37982 Filed 12-27-76;8:45 am]

[Docket No. ER77-105]

MINNESOTA POWER & LIGHT CO.

Filing of Agreement

DECEMBER 20, 1976.

Take notice that on December 10, 1976, Minnesota Power & Light Company (MP&L) tendered for filing Supplement No. 2 dated July 30, 1976, supplemental to MP&L's Export Rate Schedule FPC No. 122, the Interconnection, Facilities and Coordinating Agreement with Minnkota Power Cooperative, Inc. and the Manitoa Hydro Electric Board.

This Supplement amends Exhibit D revising Service Schedules B, G, H and I to adjust rates for power and energy and conforming the rates to those for similar service on file in the Mid-Continental Area Power Tool Agreement, NSP-FPC Rate Schedule No. 377, et al as supplemented by amendments thereto filed May 23, 1975.

MP&L requests that the Agreement become effective as of November 10, 1976, pursuant to § 35.11, because the electric facility which this Agreement exclusively pertains to become commercially operable on that date.

Service on Minnkota Power Cooperative and Manitoba Hydro Electric Board has been made in accordance with § 35.2(d).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 5, 1977.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37995 Filed 12-27-76;8:45 am]

[Docket No. ER76-46]

MONTAUP ELECTRIC CO.

Filing of Settlement Agreement

DECEMBER 20, 1976.

Take notice that on December 10, 1976, Montaup Electric Company tendered for filing a settlement agreement signed by all parties to the captioned proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 3, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37984 Filed 12-27-76;8:45 am]

[Docket No. CP75-126]

NORTHERN NATURAL GAS CO.

Petition To Amend

DECEMBER 20, 1976.

Take notice that on December 3, 1976, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP75-126 pursuant to Section 7(c) of the Natural Gas Act a petition to amend the Commission's order of January 17, 1975 in said docket to authorize an increase from 12,800 Mcf to 25,600 Mcf in the daily maximum volume allowed to be transported and delivered to Northern States Power Company (NSP) all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that pursuant to the terms of a transportation agreement, dated October 2, 1974, between Petitioner and NSP and the order of the Commission in said docket, Petitioner is authorized to transport by displacement up to 12,800 Mcf of vaporized liquified natural gas (LNG) for NSP. It is stated that the authorized transportation by displacement is carried out in the following manner: When Northern vaporizes LNG volumes at its Westcott Plant located south of St. Paul, Minnesota, Petitioner reduces the volume it otherwise would deliver to NSP at transfer points south of St. Paul by an amount equal to the volume vaporized up to a maximum reduction of 12,800 Mcf. A volume of gas equivalent to the vaporized volume is then delivered to a transfer point north of St. Paul. The southern transfer points, it is indicated, are St. Paul TBS No. 1-p and St. Paul TBS No. 1-q and the northern point is Lake Elmo TBS No. 1-b. It is further indicated that the present transportation agreement assists NSP to serve the northern and northeastern areas of St. Paul during peak periods.

Petitioner seeks authorization to increase the maximum daily volume from the current 12,800 Mcf to 25,600 Mcf. It is stated that to minimize the effect of increased volumes on the flow conditions of Petitioner's system, NSP will not be allowed to increase the hourly flow rate through Lake Elmo TBS No. 1-b by more than 200 Mcf per hours nor decrease the rate by more than 400 Mcf per hour. It is further stated that the purpose of the proposed amendment is to enable NSP more adequately to meet the needs of its firm and small volume customers served in its northern and northeastern areas and to maintain distribution system security.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37983 Filed 12-27-76;8:45 am]

[Docket No. CP76-389]

NORTHWEST PIPELINE CORP.

Amendment

DECEMBER 20, 1976.

Take notice that on December 1, 1976, pursuant to Section 1.11(a) of the Commission's Rules of Practice (18 CFR 1.11(a)), Northwest Pipeline Corporation, Post Office Box 1526, Salt Lake City, Utah 84110 (Applicant) filed in Docket No. CP76-389 an amendment to its pending application for a certificate of public convenience and necessity filed pursuant to Section 7(c) of the Natural Gas Act on June 10, 1976, in said docket. The amendment requests authorization to (1) deliver up to 27,000,000 Mcf of natural gas

to Mountain Fuel Resources, Inc. (Resources) during the 1977 injection season for injection into the Clay Basin Storage Field for storage; (2) withdraw therefrom of up to 9,400,000 Mcf of natural gas during the 1977–78 withdrawal season; and, (3) change certain billing procedures for the 1976–77 period, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that in its application filed June 10, 1976 in said docket, it sought authorization to utilize natural gas storage service provided by Resources. To effectuate its proposal, it is indicated, Applicant requested particular authorization for:

1. The delivery of natural gas to Mountain Fuel Supply Company (Mt Fuel) during the summer of 1976 for the purpose of delivering volumes of natural gas to Resources by Mt. Fuel for Applicant's account for storage and ultimate redelivery by Resources of a portion of the volumes so delivered for storage.

2. The contractual storage arrangement with Resources for the purpose of delivering and receiving volumes of natural gas from Applicant for storage and redelivery by Resources.

3. The construction and operation during 1976 of a tap connection on Applicant's main transmission system.

4. The injection of cushion gas during the summer of 1976 into the Dakota Formation of the Clay Basin Field to be operated by Resources.

5. Injection of additional cushion gas during the summers of 1977 and 1978.

6. The construction and operation of certain mainline transmission facilities during calendar year 1978.

Applicant states that a temporary certificate authorizing 1, 2, 3, and 4 above was issued on July 19, 1976 and that it has been authorized to use said storage service since that date.

In addition, Applicant states that its original filing in said docket was predicated upon the Clay Basin Storage Agreement (Agreement) dated June 8, 1976, between Applicant and Resources. On November 5, 1976, it is stated, the parties amended the Agreement to revise the level of operations for 1977–78 and to change the billing procedure for deliveries, storage and withdrawals occurring in 1976–77. It is stated that Applicant in its amended filing seeks approval for the following amendments to the Agreement: (a) a decrease in the injection of working gas during the 1977 injection season and a decrease in the withdrawal of same during the 1977–78 withdrawal season from 10,000,000 Mcf to 9,400,000 Mcf; (b) an increase in the minimum volume of cushion gas required as of November 1, 1977 from 10,219 Mcf to 17,600,000 Mcf; (c) an increase in the maximum daily injection rate during the 1977 injection season from 100,000 Mcf to 225,000 Mcf; and, (d) a change in billing procedure for 1976–77 whereby the demand component of its charges would be revised from a fixed monthly charge to a charge based on cost-of-service. Applicant states that under these amendments to its Agreement and application it will deliver up to 27,000,000 Mcf of natural gas to Resources during the 1977 injection season for storage, to be allocated about 17,600,000 Mcf to cushion gas and 9,400,000 Mcf to working gas. Said cushion gas requirement would be reduced by the volume of natural gas remaining in storage as of March 30, 1977 or about 335,000 Mcf, it is indicated.

Applicant states that, although not specifically agreed to, the level of service for the period beyond 1977–78 would be as set forth in the original Agreement. It is further stated that the cushion gas required to support the 1978–79 withdrawal season is estimated to be 23,700,000 Mcf.

Applicant states that the grant of the authorizations requested would permit Applicant to increase its summer purchases including those from Westcoast Transmission Company Limited and to utilize that gas to assist Applicant in meeting the heating season requirements of all of its customers within their respective present contract demand.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who already have filed in the subject docket need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37987 Filed 12-27-76;8:45 am]

[Docket No. RM76-36]

POLICY STATEMENT REGARDING LIMITED-TERM SALES

Order Dismissing Petition for Revision

DECEMBER 20, 1976.

On August 20, 1976, the "Industrial and Agricultural Consumers"[1], filed in Docket No. RM76-36, a Petition for Notice of Proposed Rulemaking concerning the current procedures permitting limited-term sales to interstate pipelines. Petitioners alleged that the limited-term certificate procedure, as set forth in Section 2.70 of the Commission's Regulations, is no longer an effective mechanism for obtaining emergency gas supplies from the intrastate markets to ameliorate the effects of curtailments. Petitioners suggest that the current procedure should be revised to conform to an earlier procedure established under Order No. 431 whereby proof was required only as to the reasonableness of the price and the need of the purchasing pipeline.

In Opinion No. 699[2], the Commission eliminated limited-term certificates; however, in Opinion 699-B[2], the Commission reinstituted the procedure due to the level of curtailment of the interstate pipeline systems. In so doing, the Commission added a third condition whereby a producer seeking limited-term sale of gas has the additional burden of proving that the supply would be available only for the limited period for which the certification was sought. Petitioners argue that this added condition has "effectively eliminated (the) procedure and meaningful contributions of new gas to the interstate market."

The rationale for the imposition of the third condition was that prior to Opinion No. 699-B, a producer was free to negotiate short-term commitments of natural gas for the sole purpose of maintaining his freedom to renegotiate future contracts at a higher price at the expiration of a term. The Commission concluded that the producer should be required to demonstrate by substantial evidence in an administrative hearing that the underlying reason for selling the gas supply to the interstate market for a limited-term is other than to seek a higher price at its expiration. The Commission intended to eliminate a possible vehicle for circumventing regulation.

This Commission has set a policy of encouraging that allocation of new reserves to the interstate market. In establishing a new national rate of $1.42 per Mcf, we have promulgated a rate which will encourage increased drilling activity and place interstate pipelines in a more competitive position in onshore markets. No longer does this Commission want to establish procedures which have a "band-aid effect" in dealing with natural gas crisis. Such measures have proved to provide solely temporary help to the curtailed interstate pipeline system rather than any long-term benefit.

The Commission orders. The petition filed by the Industrial and Agricultural Consumers, in Docket No. RM76-36, on August 20, 1976, is hereby dismissed without prejudice.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37977 Filed 12-27-76;8:45 am]

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[1] This is a self-styled group of individual companies.

[2] *Just and Reasonable National Rates for Sales of Natural Gas From Wells Commenced On Or After January 1, 1973, And New Dedications Of Natural Gas To Interstate Commerce On Or After January 1, 1973*, Opinion No. 699, *et al.*
[3] 52 FPC 700 (1974)

[Docket No. RP72-121; (PGA77-2)]

SOUTHWEST GAS CORP.

Filing of Tariff Sheet

DECEMBER 20, 1976

Take notice that on November 26, 1976, Southwest Gas Corporation (Southwest) tendered for filing First Substitute Eighteenth Revised Sheet No. 3A, constituting Original PGA-1 in its FPC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to increase the rates of Southwest under its Purchased Gas Adjustment Clause in Section 9 of its General Terms and Conditions contained in its FPC Volume No. 1.

Southwest states the instant notice of change in rates is occassioned solely by an increase in the cost of purchased gas which will become effective on January 1, 1977.

Southwest has requested an effective date of January 1, 1977 and states that copies of the filing have been mailed to the Neveda Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and the California-Pacific Utilities Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37985 Filed 12-27-76;8:45 am]

[Docket No. E-7201]

SOUTHWESTERN POWER ADMINISTRATION, DEPARTMENT OF THE INTERIOR

Further Extension of Time

(DECEMBER 21, 1976).

On December 7, 1976, the Sam Rayburn Dam Electric Cooperative, Inc., filed a motion for a further extension of time to comment on the request for confirmation and approval of a contract rate of compensation for the power and energy generated at the Sam Rayburn Dam Reservoir Project, filed October 4, 1976, in the above-styled proceeding. The comment period was extended to December 13, 1976, by Notice issued November 9, 1976.

Upon consideration, notice is hereby given that a further extension of time is granted to and including January 7, 1977, within which to comment on the subject filing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37999 Filed 12-27-76;8:45 am]

[Docket No. RP71-11 (PGA77-1a)]

TENNESSEE NATURAL GAS LINES, INC.

Proposed Rate Change Under Tariff Rate Adjustment Provisions

DECEMBER 20, 1976.

Take notice that on December 9, 1976, Tennessee Natural Gas Lines, Inc. "Tennessee Natural") tendered for filing proposed changes to First Revised Volume No. 1 of its FPC Gas Tariff to be substituted for tariff sheets which previously became effective on November 1 and December 1, 1976. Such proposed tarriff sheets and the sheets for which they are proposed to be substituted are:

Substitute Eighteenth Revised Sheet PGA-1 in substitution for Eighteenth Re-Revised Sheet No. PBA-1 which became effective in Docket No. RP71-11 (PGA 77-1) December 1, 1976;

Substitute Thirteenth Revised Sheet No. PGA-2 in substitution for Thirteenth Revised Sheet No. PGA-2 which became effective in Docket No. RP71-11 (PGA77-1) on December 1, 1976;

Substitute Second Revised Sheet No. 4-A in substitution for Second Subsitute First Revised Sheet No. 4-A, which became effective in Docket No. RP76-99 on November 1, 1976;

Substitute First Revised Sheet No. 4-B in substitution for First Revised Sheet No. 4-B which became effective in Docket No. RP76-99 on November 1, 1976.

Tennessee Natural states that the sole purpose of the proposed substitutions is to correct errors on the sheets proposed to be replaced which were discovered after such sheets became effective and which results in an overstatement of the commodity rate after current adjustment set forth on Sheet Nos. PGA-1 and PGA-2. Tennessee Natural further states that such error results, in turn, from an error contained in the statement and effective date of its sole supplier's rate, contained on Sheet Nos. 4-A and 4-B, which is used in computation of its PGA rate changes.

Tennessee Natural further advises the Commission that it has discovered that, although the same has operated correctly in the past, in the future due to changed circumstances the PGA provisions of its tariff as applied to its SWS-1 Rate Schedule (for service from its LNG storage facility) may result in Tennessee Natural recovering rate changes of its supplier on a time period basis different than the Commission may have intended; that if such is the case, the PGA provisions of its tariff as applied to its SWS-1 Rate Schedule will have to be changed and that the same will be complex and will require time and study to work out. Tennessee Natural states its belief that the proper forum for working out such problems, if any, would be its general rate proceeding in Docket No. RP76-99. Tennessee Natural states that, in the meantime, it voluntarily agrees that it will collect the PGA increase in the commodity component of its SWS-1 Rate Schedule beginning December 1, 1976 subject to refund and will refund back to such date any amounts collected thereunder in excess of the rates it would have collected under any revised PGA clause applicable to its SWS-1 rate schedule which may finally be approved.

Tennessee Natural states that copies of the filing have been mailed to its jurisdictional customer and the affected state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. This notice does not provide for consolidation of the captioned proceedings and any party desiring to protest or intervene in either proceeding should file separately in either docket. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37991 Filed 12-27-76;8:45 am]

[Docket No. RP71-11 (PGA77-2)]

TENNESSEE NATURAL GAS LINES, INC.

Proposed Rate Change Under Tariff Rate Adjustment Provisions

DECEMBER 20, 1976.

Take notice that on December 9, 1976, Tennessee Natural Gas Lines, Inc. ("Tennessee Natural") tendered for filing proposed changes to First Revised Volume No. 1 of its FPC Gas Tariff to be effective on January 1, 1977, consisting of the following revised tariff sheets:

Nineteenth Revised Sheet No. PGA-1 and Fourteenth Revised Sheet No. PGA-2.

Tennessee Natural states that the purpose of the instant filing is to make a PGA rate adjustment pursuant to the purchased gas adjustment provisions of Rate Schedule G-1 and SWS-1 of its FPC Gas Tariff to reflect a PGA rate change of its sole supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. ("Tennessee Gas"), filed on or about December 1, 1976 and proposed to become effective on January 1, 1977.

Tennessee Natural further advises the Commission that it has discovered that,

although the same has operated correctly in the past, in the future due to changed circumstances the PGA provisions of its tariff as applied to its SWS–1 Rate Schedule (for service from its LNG storage facility) may result in Tennessee Natural recovering rate changes of its supplier on a time period basis different than the Commission may have intended; that if such is the case, the PGA provisions of its tariff as applied to its SWS–1 Rate Schedule will have to be changed and that the same will be complex and will require time and study to work out. Tennessee Natural states its belief that the proper forum for working out such problems, if any, would be its general rate proceeding in Docket No. RP76–99. Tennessee Natural states that, in the meantime, it voluntarily agrees that it will collect the PGA increase in the commodity component of its SWS–1 Rate Schedule (Sheet No. PGA–2 tendered for filing) subject to refund and will refund back to the effective date thereof any amounts collected thereunder in excess of the rates it would have collected any revised PGA clause applicable to its SWS–1 rate schedule which may finally be approved.

Tennessee Natural states that copies of the filing have been mailed to its jurisdictional customer and the affected state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. This notice does not provide for consolidation of the captioned proceedings and any party desiring to protest or intervene in either proceeding should file separately in either docket. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37992 Filed 12–27–76; 8:45 am]

[Docket No. RP74–41; (PGA72–2a)]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

DECEMBER 21, 1976.

Take notice that Texas Eastern Transmission Corporation on December 7, 1976 tendered for filing proposed changes in its FPC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Substitute Twenty-seventh Revised Sheet No. 14.
Substitute Twenty-seventh Revised Sheet No. 14A.
Substitute Twenty-seventh Revised Sheet No. 14B.
Substitute Twenty-seventh Revised Sheet No. 14C.
Substitute Twenty-seventh Revised Sheet No. 14D.

These sheets are being issued in substitution for sheets filed by Texas Eastern on November 17, 1976 pursuant to the Demand Charge Adjustment Commodity Surcharge provision and Purchased Gas Cost Adjustment provision contained in Section 12.4 and 23, respectively, of the General Terms and Conditions of Texas Eastern's FPS Gas Tariff, Fourth Revised Volume No. 1. This substitute filing reflects a net reduction from such November 17, 1976 filing based on a revision of the impact of Opinion No. 770–A on Texas Eastern's cost of purchased gas from its pipeline and producer suppliers and a partial reduction in DCA Commodity Surcharges.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37998 Filed 12–27–76; 8:45 am]

[Docket No. PR72–156; (PGA77–2a)]

TEXAS GAS TRANSMISSION CORP.

PGA Filing To Track the Reduced Rates of a Pipeline Supplier

DECEMBER 20, 1976.

Take notice that on December 6, 1976, Texas Gas Transmission Corporation (Texas Gas) submitted for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, Substitute Seventeenth Revised Ssheet No. 7.

Substitute Seventeenth Revised Sheet No. 7 is being filed to reflect the reduced rates of a pipeline supplier, Texas Eastern Transmission Corporation (Texas Eastern) which will become effective January 1, 1977.

The proposed effective date of Substitute Seventeenth Revised Sheet No. 7 is January 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37986 Filed 12–27–76; 8:45 am]

[Docket Nos. RP71–31, RP72–78, RP73–3, AR61–2 and AR69–1, *et al.* (Disputed Zone)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Approving Refund Plan and Directing Release of Refunds

DECEMBER 21, 1976.

On March 1, 1976, Transcontinental Gas Pipe Line Corporation (Transco) filed with the Commission a proposal to distribute to its jurisdictional customers $734,486.56 in refunds received from certain suppliers for the period January 1, 1971, through September 30, 1973. Transco states that said refunds have been made by its suppliers pursuant to Commission order issued December 9, 1975, in *Area Rate Proceeding, et al. (Southern Louisiana Area)*, Docket Nos. AR61–2 and AR69–1, *et al.* (Disputed Zone). Under Transco's proposal, refunds will be made by crediting the Deferred Purchased Gas Cost Account.

Notice of the instant filing was issued on March 8, 1976, providing that any comments or protests should be filed on or before March 19, 1976. No responses have been received.

Review of Transco's proposed refund plan indicates that it is reasonable and should be approved. Accordingly, Transco shall be ordered to refund the amount in question by crediting its Deferred Purchased Gas Cost Account within 10 days of the date of issuance of this order.

The Commission finds. It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that Transco be ordered to distribute the refunds discussed herein by crediting the subject amount to its Deferred Purchased Gas Cost Account.

The Commission orders. (A) Transco is hereby directed to release, within 10 days of issuance of this order, the refunds discussed herein by crediting its Deferred Purchased Gas Cost Account.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–38001 Filed 12–27–76; 8:45 am]

[Project No. 848]

WELLS RURAL ELECTRIC CO.

Issuance of Annual License(s)

DECEMBER 20, 1976.

On July 14, 1954, a license was issued to Wells Rural Electric Company for Project No. 848, located in Elko County, near the town of Wells, Nevada.

The license for Project No. 848 was issued effective December 14, 1953, for a period ending December 13, 1973. Since expiration of the original license, the project has been maintained and operated under annual license, the most recent of which will expire on December 13, 1976. In order to authorize the continued operation and maintenance of the project, pending the filing and completion of Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Wells Rural Electric Company.

Take notice that an annual license is issued to Wells Rural Electric Company for the period December 14, 1976, to December 13, 1977, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 848 subject to the terms and conditions of the original license. Take further notice that if issuance of a new license does not take place on or before December 13, 1977, a new annual license will be issued each year thereafter, effective December 14 of each year, until such time as a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37990 Filed 12-27-76;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1976 No. 49]

APPLICATIONS AND REPORTS

Actions of the Board

Received during the week ending December 4, 1976.

ACTIONS OF THE BOARD

Regulation U, notice of further revisions to revised Form U-1, "Statement of Purpose of a Stock-Secured Extension of Credit by a Bank".

Individual Retirement Accounts, the Federal Reserve System is conducting a one-time survey of the outstanding amount of IRA deposits as of December 31, 1976; letter and general instructions to all Federal Reserve Banks.

Amendment to Rules Regarding Delegation of Authority, specific functions delegated to Board employees and to Federal Reserve Banks.

Fidelity Union Bancorporation, Newark, New Jersey, extension of time within which to open an office located at the intersection of Routes Nos. 10 and 202 in Parsippany-Troy Hills, New Jersey.[1]

Bank of Elmore Company, Elmore, Ohio, to make an investment in bank premises.[1]

Harris Trust and Savings Bank, Chicago, Illinois, to make an investment in bank premises.[1]

Liberty State Bank & Trust, Hamtramck, Michigan, to make an investment in bank premises.[1]

First Trust & Deposit Company, Syracuse, New York, extension of time within which to establish an office in the immediate neighborhood of the intersection of the West Entry Road and Willett Parkway, Radisson, Town of Lysander, New York.[1]

First Virginia Bank of Roanoke Valley, Roanoke, Virginia, extension of time within which to establish a branch at 231 College Avenue, Salem, Virginia.[1]

Deregistration statement for lenders pursuant to Regulation G for D. H. Baldwin Company and for Eagle-Picher Industries, Inc., both of Cincinnati, Ohio.[1]

Deregistration statement for lenders pursuant to Regulation G for Gasco, Inc., Honolulu, and for Retirement System of Hawaiian Telephone Company, Honolulu, Hawaii.[1]

Deregistration statement for lenders pursuant to Regulation G for Coastal Bend Production Credit Association, Robstown, West Texas Production Credit Association, Houston, Rolling Hills Production Credit Association, Jasper, and for Republic National Life Insurance Company, Dallas, Texas.[1]

Jackson Exchange Bank, Jackson, Missouri, application for permission to exercise general trust powers.[1]

Peoples-Liberty Bank and Trust Company, Covington, Kentucky, request for permission to reduce its capital stock.[1]

Bank of America N.T & S.A., San Francisco, California, extension of time to December 23, 1977, within which to acquire shares of European Brazilian Bank Ltd., London, presently held by Bank of America International S.A., Luxembourg and its wholly-owned subsidiary, Bank of America International Ltd., London.[1]

Banco Nacional S.A., Rio de Janeiro, Brazil, letter to New York State Banking Department interposing no objection to Bank establishing a branch at 2 Wall Street, Borough of Manhattan, New York.[1]

Nippon Fudosan Bank Ltd., Tokyo, Japan, letter to New York State Banking Department interposing no objection to Bank establishig a branch at 2 Wall Street, Borough of Manhattan, New York.[1]

Barnett Bank of North Pensacola, Escambia County, Florida, proposed merger with Barnett Bank of Pensacola, Pensacola, Florida; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Deposit National Bank, DuBois, Pennsylvania, proposed merger with Farmers and Merchants Bank, St. Marys, Pennsylvania; report to the Comptroller of the Currency on competitive factors.[1]

Farmers and Traders Bank, Wrightstown, Wisconsin, proposed acquisition by West Bank and Trust, Green Bay, Wisconsin; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

First Bank of Athol (National Association), Athol, Massachusetts, proposed merger with The First National Bank of Athol, Athol, Massachusetts; report to the Comptroller of the Currency on competitive factors.[1]

Midlantic National Bank/West, Morristown, New Jersey; proposed merger with Midlantic National Bank, Newark, New Jersey; report to the Comptroller of the Currency on competitive factors.[1]

Subsidiaries of Flagship Banks, Inc., Miami Beach, Florida, proposed merger with Flagship Bank of St. Petersburg, N.A., St. Petersburg, Florida; report to the Comptroller of the Currency on competitive factors.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

NOTE.—The H.2 release is now published in the FEDERAL REGISTER. It will continue to be sent, upon request, to anyone desiring a copy.

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

The Central Trust Company of Canal Winchester, Canal Winchester, Ohio. Branch to be established at Waggoner Road and East Main Street, Reynoldsburg, Franklin, Fairfield, and Licking Counties.[2]

Harris Trust and Savings Bank, Chicago, Illinois. Branch to be established in the Board of Trade Building, 141 West Jackson Boulevard, Chicago.[2]

Bank of Houston, Houston, Texas. To establish a drive-in facility to be located directly across Fannin Street from existing bank premises.[2]

* * * * *

To Become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

First Northwestern Trust Company of South Dakota, Sioux Falls, South Dakota.[2]

The Garden of the Gods Bank, Colorado Springs, Colorado.[2]

* * * * *

To Establish an Overseas Branch of a Member bank Pursuant to Section 25 of the Federal Reserve Act.

APPROVED

Detroit Bank and Trust Company: Branch—George Town, Grand Cayman, Cayman Islands.

To Organize or Invest in a Corporation Doing Foreign Banking and Other Foreign Financing Pursuant to Section 25 of 25(a) of the Federal Reserve Act.

APPROVED

Chemical Bank: Re: To organize an Edge Corporation to be known as "Chemco International, Inc."

* * * * *

International Investments and Other Actions Pursuant to Sections 25 and 25 (a) of the Federal Reserve Act and Sections 4(c) (9) and 4(c) (13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Bank of America: Investment—additional shares of corner Banca S.A., Switzerland, in order to maintain its 20.7 per cent interest.

Banco di Roma, S.P.A., Rome, Italy: Reconsideration of divestiture of stock of Euro-Partners Securities Corp., New York.

Bamerical International Financial Corporation: To continue to hold the shares of BankAmerica Finance, Ltd., Reading, England, after the latter issues debt obligations.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a) (1) of the Bank Holding Company Act of 1956.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

APPROVED

Crestwood Banking Company, Ltd., Crestwood, Kentucky, for approval to acquire 80 per cent or more of the voting shares of Crestwood State Bank, Crestwood, Kentucky.

Stillwater Holding Company, Stillwater, Minnesota, for approval to acquire 80.02 per cent of the voting shares of The First National Bank of Stillwater, Stillwater, Minnesota.[2]

Windsor Bancshares, Inc., Windsor, Missouri, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of The Citizens Bank of Windsor, Windsor, Missouri.[2]

West Texas Bancorporation, Inc., Post, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of The First National Bank of Post, Post, Texas.[2]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a) (3) of the Bank Holding Company Act of 1956.

APPROVED

CB&T Bancshares, Inc., Columbus, Georgia, for approval to acquire 51 per cent or more of the voting shares of Commercial Bank, Thomasville, Georgia.

CB&T Bancshares, Inc., Columbus, Georgia, for approval to acquire 51 per cent or more of the voting shares of La Grange Banking Company, La Grange, Georgia.

First National Financial Corporation, Kalamazoo, Michigan, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Grand Rapids Bank, National Association, Grand Rapids, Michigan.[2]

Evans Insurance Agency, Inc., Billings, Oklahoma, for approval to retain 411 of the voting shares of The First State Bank in Billings, Billings, Oklahoma.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company Act of 1956.

DELAYED

Shawmut Corporation, Boston, Massachusetts, notification of intent to engage in de novo activities (agricultural commodity financing, and servicing such financing and related and incidental activities and in general, making, servicing, or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities) at 4701 Marion Street, Denver, Colorado, through a subsidiary, American Cattle and Crop Services Corporation (11/29/76).[2]

Virginia National Bankshares, Inc., Norfolk, Virginia, notification of intent to engage in de novo activities (acting as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business with respect to any insurance that is directly related to an extension of credit by a bank or a bank related firm or is directly related to the provision of other financial services by a bank or such bank related firm; protecting the value of assets financed, leased, such as homeowners, fire, theft, and other perils, comprehensive, collision, marine, and liability when sold as part of an otherwise permissible package) in Norfolk, Virginia, through its subsidiary, VNB Insurance Agency, Inc. (12/3/76).[2]

PERMITTED

Industrial National Corporation, Providence, Rhode Island, notification of intent to engage in de novo activities (the leasing of personal property) at One Northpark East, Suite 109, 8350 North Central Expressway, Dallas, Texas, through Inleasing Corporation, a subsidiary of Industrial National Corporation (11/29/76).[2]

Maryland National Corporation, Baltimore, Maryland, notification of intent to engage in de novo activities (engaging generally in the business of leasing personal property including, but not limited to, the leasing of various types of equipment, machinery, vehicles, transportation equipment, and data processing equipment; originating personal property leases as principal or agent; servicing personal property leases for affiliated or non-affiliated individuals, partnerships, or corporations; buying and selling and otherwise dealing in personal property lease contracts as principal or agent; acting as adviser in personal property leasing transactions; engaging in the sale, as agent or broker, of insurance similar in form and intent to credit life and/or mortgage redemption insurance; engaging generally in the business of leasing real property where the lease is the functional equivalent of an extension of credit; originating real property leases as principal or agent; servicing real property leases for affiliated or non-affiliated individuals, partnerships, corporations or other entities; buying, selling, and otherwise dealing in real property leases as principal, agent, or broker and acting as adviser in real property leasing transactions) at 1301 York Road, Lutherville, Maryland, through a subsidiary, Maryland National Leasing Corporation (12/2/76).[2]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in de-novo activities (acting as investment or financial adviser to the extent of serving as investment adviser as defined in Section 2(a) (20) of The Investment Company Act of 1940 to an investment company registered under that act; providing portfolio investment advice to any other person and furnishing general economic information and advice, general statistical forecasting services, and industry studies; and providing financial advice to State and local governments such as with respect to the issuance of their securities) at 250 Park Avenue, South, Winter Park, Florida and 1001 East Atlantic Avenue, Delray Beach, Florida, through a subsidiary, Barnett Investment Services, Inc. (12/5/76).[2]

TG Bancshares Co., St. Louis, Missouri, notification of intent to engage in de novo activities (providing financially-oriented data processing and bookkeeping services for nonbanking businesses; development of financially-oriented automated data processing programs; and carrying on permissible incidental activities to the extent excess computer time and facilities are available at 3115 South Grand Boulevard, St. Louis, Missouri, through a subsidiary, Financial Computing Corporation of Missouri (11/29/76).[2]

Northwest Bancorporation, Minneapolis, Minnesota, notification of intent to acquire a de novo trust company (assume trust activities from four subsidiary banks) at 204 South First Street, Aberdeen, South Dakota; 825 St. Joe Street, Rapid City, South Dakota; 101 North Phillips Avenue, Sioux Falls, South Dakota; and 20 North Maple Street, Watertown, South Dakota; through First Northwestern Trust Co. of South Dakota (12/3/76).[2]

Peoples State Holding Company, Westhope, North Dakota, notification of intent to engage in de novo activities (the activities of an agricultural credit company) in Newburgh and Westhope, both in North Dakota, through a subsidiary, Peoples Credit Company (12/4/76).[2]

NBC Co., Lincoln, Nebraska, notification of intent to engage in de novo activities (conducting the business of an industrial loan and investment company including issuance of interest bearing savings certificates and making loans including consumer loans, commercial loans, and real estate mortgage loans) at 10855 West Dodge Road, Omaha, Nebraska, through a subsidiary, Mutual Savings Company of Omaha (12/3/76).[2]

First Hawaiian, Inc., Honolulu, Hawaii, notification of intent to relocate de novo activities (operating as an industrial loan company in the manner authorized by State law) from 94-246 Mokuola Street to 94-144 Farrington Highway, Waipahu, Hawaii, through its subsidiary, Hawaii Thrift & Loan Incorporated (11/29/76).[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (acting as broker or agent for the sale of credit related property and casualty insurance with respect to loans or extensions of credit of The Bankers Investment Company at 400 S. Broadway, Wichita, Kansas, through its subsidiary, The Bankers Investment Company (11/28/76).[2]

To expand a bank holding company pursuant to section 4(c) (12) of the Bank Holding Company Act of 1956.

PERMITTED

Berkshire Hathaway Inc., New Bedford, Massachusetts, notification of intent to acquire directly and indirectly more than five per cent of the outstanding voting stock of Government Employees Financial Corporation, Denver, Colorado, a consumer finance business in the United States and West Germany (12/2/76).[2]

APPLICATIONS RECEIVED

To establish a domestic branch pursuant to section 9 of the Federal Reserve Act.

Chemical Bank of Binghamtpon, Binghamton, New York. Branch to be established at 1935-1977 Lake Street, Town of Elmira, Chemung County.

Endicott Trust Company, Endicott, New York. Branch to be established on Route 434 approximately 500 feet east of the intersection of Pennsylvania Avenue in the Hamlet of Apalchin, Town of Owego, Tioga County.

First Manassas Bank and Trust Company, Manassas, Virginia. Branch to be established in the K-Mart Shopping Center on Sudley Manor Drive, Manassas.

Community Bank and Trust Company of Augusta County, Verona, Virginia. Branch to be established at 1157 West Main Street, Waynesboro.

[2] 4(c) (8) and 4(c) (12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Union Bank and Trust Company, Evansville, Wisconsin. Branch to be established at the corner of North Madison and Mill Street, Evansville.

Glenwood State Bank, Glenwood, Iowa. Branch to be established at Glenwood Plaza Shopping Center, Glenwood.

Bank of Houston, Houston, Texas. To establish a drive-in facility to be located directly across Fannin Street from existing bank premises.

* * * * *

To become a member of the Federal Reserve System pursuant to section 9 of the Federal Reserve Act.

Garden of the Gods Bank, Colorado Springs, Colorado.

* * * * *

To merge pursuant to section 18(c) of the Federal Deposit Insurance Act.

The Commercial Bank, Delphos, Ohio, for prior approval to merge with The Farmers Bank of Elida, Elida, Ohio.

To form a bank holding company pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956.

Page Bank Holding Company, Page, North Dakota, for approval to acquire 92.67 per cent of the voting shares of Page State Bank, Page, North Dakota.

Y & S Investment Company, Omaha, Nebraska, for approval to acquire 80 per cent or more of the voting shares of State Bank of Atwood, Atwood, Kansas.

* * * * *

To retain bank shares acquired in a fiduciary capacity pursuant to section 3 of the Bank Holding Company Act of 1956.

First Chicago Corporation, Chicago, Illinois, for approval to retain the shares of Marco Capital Corporation, Wilmington, Delaware and indirectly acquire Marshall County Bank & Trust Company, Plymouth, Indiana.

* * * * *

To expand a bank holding company pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956.

Centran Corporation, Cleveland, Ohio, notification of intent to engage in de novo activities (the making and acquiring of consumer finance loans, for its own account or the account of others, (including loans to individuals secured by second mortgages or deeds of trust on residential property) the purchasing of installment sales contracts; the sale as agent of credit life insurance and health and accident insurance to borrowers at their request in connection with extensions of credit; the sale as agent of fire, inland marine, and extended coverage insurance on real property, furniture, and household goods and vehicular physical damage insurance on vehicles taken as collateral on loans made or purchased; and the servicing of loans and other extensions of credit for any person) at 8803 Sudly Road, Manassas, Virginia, through its wholly-owned subsidiary, Major Finance Corporation, Silver Spring, Maryland (11/30/76)[2]

Citizens and Southern Holding Company, Atlanta, Georgia, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including specifically (but without limitation upon the foregoing) the making of loans secured by second mortgages upon residential and other real property and servicing loans and other extensions of credit) at 6445 Powers Ferry Road, Atlanta, Georgia and 1895 Phoenix Boulevard, College Park, Georgia, through a subsidiary, Citizens and Southern Equity Mortgage Company (Dec. 2, 1976).[2]

Security Bancorp, Inc., Southgate, Michigan, for approval to expand its insurance underwriting activities through its subsidiary, United Bankers Life Insurance Company, Phoenix, Arizona (engage in underwriting, as reinsurer, credit accident and health insurance in connection with extensions of credit by the holding company system).

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making loans and extending credit and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company, including but not limited to, making consumer installment loans, purchasing installment sales finance contracts, and making loans to small businesses and extensions of credit secured by real or personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit by FinanceAmerica Corporation of Massachusetts) from Suite 200, 74 Merrimack Street, Lowell, Massachusetts to 1105 K. Lakeview Avenue, Dracut, Massachusetts, through its indirect subsidiary, Finance America Corporation of Massachusetts (Nov. 26, 1976).[3]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in de novo activities (the making or acquiring, for its own account or for the account of others, loans and other extensions of credit) at 1412 West Idaho Street, Boise, Idaho, through its subsidiary, Rainier Mortgage Company (Nov. 26, 1976).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) at 1400 North Harbor Boulevard, Fullerton, California, through its subsidiary, Security Pacific Finance Corp. (Nov. 26, 1976).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) at Del Amo Financial Center, 21515 Hawthorne Blvd., Torrance, California, through its subsidiary, Security Pacific Finance Corp. (Nov. 26, 1976).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (the financing of personal property and equipment and real property and the leasing of such property or the acting as an agent, broker, or adviser in the leasing and/or financing of such property where at the inception of the initial lease the effect of the transaction (and, with respect to Governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease and the servicing of such financing and/or leases) at Suite 910, 7777 Bonhomme, Clayton, Missouri, through its subsidiary, Security Pacific Leasing Corporation. (Nov. 26, 1976).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate de novo activities (the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for its own account or for the sale to others and the sevicing of such loans on multi-family and commercial properties for its own account or for the sale to others and the servicing of such loans for others) from 310 West Fifth Avenue to 1011 East Tudor Road, Anchorage, Alaska, through its subsidiary, Security Pacific Mortgage Corporation (Nov. 22, 1976).[3]

* * * * *

REPORTS RECEIVED

None.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, December 17, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37849 Filed 12-27-76;8:45 am]

BANKSTOCK ONE, INC.

Formation of Bank Holding Company

Bankstock One, Inc., Ozark, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent of the voting shares of Bank of Ozark, Ozark, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than January 12, 1977.

Board of Governors of the Federal Reserve System, December 16, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37847 Filed 12-27-76;8:45 am]

EDWARD BATES & SONS (HOLDINGS), LTD.

Order Disapproving Retention of Investment

The First Arabian Corporation, S.A. ("FAC"), Paris, France, has applied for the Board's approval under section 4(c)(9) of the Bank Holding Company Act of 1956, as amended ("the Act"), 12 U.S.C. 1843(c)(9), to retain more than five per cent of the voting shares of Edward Bates & Sons (Holdings), Ltd. ("Bates Holdings"), London, England, if FAC becomes a bank holding company. FAC now owns 24.7 per cent of the voting shares of Bates Holdings, but proposes to reduce its ownership to 7.5 percent of such shares.

FAC today received the Board's approval to become a bank holding company by acquisition of 77.4 percent of the voting shares of Bank of the Commonwealth ("Bank"), Detroit, Michigan. FAC presently owns 49 percent of J. H. Rayner & Co., Ltd. ("Rayner"), London, England, and holds an option on an additional 2 percent of Rayner's voting shares, which it will exercise before acquiring shares of Bank. Upon exercise of this option and consummation of the proposed acquisition of Bank, FAC will be a foreign bank holding company within the meaning of § 225.4(g)(1)(iii) of Regulation Y, and as such can, under § 225.4(g)(2)(v) of Regulation Y, own or control voting shares of a company, organized under the laws of a foreign country, that is engaged directly or indirectly in activities in the United States if (a) such company is not a subsidiary of FAC, (b) more than half of the company's consolidated assets and revenues are located and derived outside the United States, and (c) such company does not engage, directly or indirectly, in the business of underwriting, selling, or distributing securities in the United States.

Bates Holdings, which is organized under the laws of the United Kingdom, meets the first two tests of § 225.4(g)(2)(v) of Regulation Y since it is not a subsidiary of FAC and more than half of its consolidated assets and revenues are located and derived outside the United States. However, Bates Holdings owns 52 percent of the voting shares of Edward Bates & Sons North America, Ltd. ("Bates North America"), Houston, Texas, a company, registered as a broker-dealer with the Securities and Exchange Commission, which engages in the business of assisting business enterprises in the private placement of debt and equity. FAC states that Bates North America places securities with large institutional investors in the United States, but does not take an equity position in the businesses it serves, and does not deal with the general public. It further appears that Bates North America in almost all cases participates in negotiations between its clients and prospective purchasers, and in most cases charges a fee that is contingent upon a successful placement.

FAC believes that the activities of Bates North America should not cause Bates Holdings to be deemed to be indirectly engaged in the business of underwriting, selling, or distributing securities in the United States because Bates North America's activities do not present the dangers against which the Glass-Steagall Act and related laws and regulations were designed to protect. Accordingly, FAC believes its investment in Bates Holdings qualifies under § 225.4(g)(2)(v) of Regulation Y. In the alternative, FAC believes that even if its investment in Bates Holdings does not meet the tests for exemption in § 225.4(g)(2)(v) of Regulation Y because of the activities of Bates North America, FAC's investment in Bates Holdings should be specifically approved under § 225.4(g)(3) of Regulation Y. FAC essentially contends that due to its remote and tenuous relationship to Bates North America and its lack of control over Bates Holdings, retention would not be substantially at variance with the purposes of the Act and would be in the public interest. In particular, FAC believes that divestiture of its interest in Bates Holdings below five percent would not be in the public interest since it could delay FAC's acquisition of Bank.

It is the public policy of this nation's banking laws, as expressed in the Glass-Steagall Act, 12 U.S.C. 24(7), 78, 377, 378, to separate commercial banking from investment banking, and, in the Board's judgment, Bates North America's participation in negotiations and its contingent fee arrangements infringe upon the area of investment banking to such an extent that it must be considered to be engaged in the business of underwriting, selling, or distributing securities within the meaning of § 225.4(g)(2)(v) of Regulation Y. In this connection, the Board notes that the Deputy Comptroller of the Currency has ruled, in letter rulings dated November 11, 1974 and January 15, 1975, that national banks and their subsidiaries should not participate in any substantial degree in negotiations between their clients and prospective purchasers of securities, nor should they charge a fee contingent upon a successful placement of securities since such a middleman role "lies at the heart of the investment banking business," and such a fee arrangement is a "strong incentive for the bank to locate a purchaser with whom a deal can can be made." It is precisely this promotional interest of the investment banker that the Glass-Steagall Act intended to separate from the commercial banker's interest in acting as an impartial source of credit and providing impartial investment advice.[1] Accordingly, the Board concludes that Bates Holdings is engaged, indirectly through Bates North America, in the business of underwriting, selling, or distributing securities in the United States and that FAC's investment in Bates Holdings therefore is not among the investments permitted by § 225.4(g)(2)(v) of Regulation Y.

Furthermore, the Board has determined that under the circumstances retention of FAC's shares in Bates Holdings is substantially at variance with the purposes of the Act and is not in the public interest, and FAC's request for a specific exemption under § 225.4(g)(3) is denied. The Board notes that FAC's interest in Bates Holdings is 24.7 percent and may soon be reduced to 7.5 percent, and that such a reduction would tend to reduce correspondingly the likelihood that abuses will arise from the relationship between Holdings and Bank.[2] Congress has provided in section 4(c)(6) of the Act, however, that a bank holding company may own up to five percent of the voting shares of a company regardless of that company's activities, and, because of the overriding importance to the banking system of the principles enunciated by Congress in the Glass-Steagall Act, the Board concludes that it would be substantially at variance with the purposes of the Act and would not be in the public interest to sanction a closer connection between commercial banking and investment banking activities than that permitted under the de minimis level of § 4(c)(6) of the Act. In addition, FAC's indirect investment in Bates North America is an investment that would not be permitted if FAC were a domestic bank holding company, and the Board believes the principles of Glass-Steagall should apply equally to foreign bank holding companies. Affiliation with a domestic securities company could, in this regard, give a foreign bank holding company a competitive advantage over domestic bank holding companies.[3]

The Board notes that FAC proposes to reduce its ownership to 7.5 percent of the outstanding shares of Bates Holdings, and the Board is aware from the facts of record that a further reduction may be difficult.[4] In recognition of such hardship, however, Companies has allowed bank holding companies from two to five years, depending on the circumstances in individual cases, to accomplish the divestiture of impermissible nonbank companies, and there is accordingly no reason that Applicant's purchase of Bank shares should be delayed on account of the Board's denial of this application.

Based upon the foregoing and other considerations reflected in the record, the Board denies the request of FAC for an exemption under section 4(c)(9) of the

[1] See *Investment Company Institute v. Camp*, 401 U.S. 617, 631–632 (1971).

[2] The Board recognizes that measures might be taken to insulate FAC's banking and its indirect securities activities, but believes that to guard comprehensively and effectively against all possible abuses, such measures would be so complex as to be administratively unworkable. See Order disapproving retention by Banco di Roma of investment in Europartners Securities Corporation, 59 Federal Reserve Bulletin 940 (1972).

[3] See Order disapproving retention by Banco di Roma of investment in Europartners Securities Corporation, supra, n. 2.

[4] FAC states that because of its minority interest in Bates Holdings it does not have the ability to effect a divestiture by Bates Holdings of Bates North America.

Act for its investment in Bates Holdings. Under section 4(a)(2) of the Act, if FAC consummates its proposed acquisition of Bank, it will be required by law to divest its ownership of shares of Bates Holdings in excess of five per cent within two years after the date on which it becomes a bank holding company.

By order of the Board of Governors,[5] effective December 17, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-37845 Filed 12-27-76;8:45 am]

FIRST ARABIAN CORP.

Order Approving Formation of Bank Holding Company

The First Arabian Corporation, Paris, France ("FAC"), has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a band holding company through acquisition of 77.4 percent or more of the voting shares of Bank of the Commonwealth, Detroit, Michigan ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

FAC is a foreign corporation (total assets on a parent-only basis of $27.1 million, as of August 31, 1976) organized under Luxembourg law and acts as a holding company with investments primarily in various overseas business enterprises. Its principal investments are in two English companies, headquartered in London, Edward Bates & Sons (Holdings), Limited, whose major asset is a London merchant bank, and J. H. Rayner & Company, Limited, whose major interest is in a London based trading company, Rayner & Faure, Limited. FAC, through Edward Bates & Sons, also has an interest in Edward Bates and Sons North America, Houston, Texas, a company principally engaged in the private placement of debt and securities.[1] With the exception of Bates North America, FAC's operations are conducted overseas.

Upon acquisition of Bank, FAC would control the sixth largest banking organization in Michigan with $836 million in deposits, representing 2.8 percent of the total commercial bank deposits in the State.[2] Bank is the fifth largest of 38 banking organizations operating in the Detroit banking market (the relevant market) and controls 5.3 percent of total commercial bank deposits in the Detroit market.[3] On the basis of the facts of record, consummation of the proposal would have no significant adverse effects on existing or potential competition in any relevant area; therefore, competitive considerations are consistent with approval of the application.

Under the Bank Holding Company Act, the Board must consider the financial and managerial resources and future prospects of both the applicant holding company and the bank to be acquired. In regard to such considerations, it is noted that Bank's condition is of such a nature that the direct financial support of the Federal Deposit Insurance Corporation is required.[4] While Bank's condition reflects some improvement since 1972, it appears that Bank has inadequate resources to repay the Capital Notes to the FDIC when due and maintain continued operations. As part of this proposal, FAC has agreed to make an equity capital infusion into Bank of $10 million (less any amounts derived from the exercise of preemptive rights by existing security holders), which will occur as a result of a recapitalization plan to be voted upon by Bank's shareholders on December 20, 1976. At the same time, the FDIC has agreed to extend the maturity and modify terms of its notes. Such additional capital and the FDIC's proposed action are essential to the Bank's ability to continue functioning. In these circumstances, the Board is of the view that the financial resources and future prospects of Bank are dependent upon the implementation of the recapitalization plan, including FAC's injection of capital into Bank. With respect to Bank's managerial resources, they have shown some improvement, though additional strengthening is required. While FAC cannot be viewed as a significant source of managerial strength and its current financial resources are otherwise limited, FAC's assistance through the recapitalization plan does offer immediate financial strengthening of Bank, which would preserve the opportunity for further improvements. In light of all of the above and other facts of record, it is the Board's view that banking factors associated with this proposal lend significant weight toward approval of the application.

There is no evidence to indicate that the banking needs of the community to be served are not currently being met. However, approval of the proposal will enable Bank to continue to compete in the Detroit banking market as an independent and full-service competitive alternative in that market. Thus, convenience and needs considerations lend weight toward approval. Accordingly, based on the above and all the facts of record, it is the Board's judgment that approval of the application would be in the public interest and the application should be approved subject, however, to the provisions and terms of the agreements and undertakings FAC enters into with the Federal Deposit Insurance Corporation, and on the conditions that the recapitalization plan is approved by the stockholders of Bank and that the plan is in fact implemented.

On the basis of the record, the application is approved for the reasons summarized above and on the conditions stated. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[5] December 17, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-37846 Filed 12-27-76;8:45 am]

FREECO, INC.

Order Approving Retention of Bank Shares

Freeco, Inc., Hermitage, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to retain 1,956 of the outstanding voting shares of The Bank of Hermitage, Hermitage, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a one-bank holding company by virtue of its ownership of 48.9 percent of the outstanding voting shares of Bank. In December of 1975, Applicant acquired an additional 1,956 shares of Bank's outstanding voting shares pursuant to a pro rata stock offering. The acquisition was made without the

[5] Voting for this action: Chairman Burns and Governors Gardner, Wallich Coldwell, and Partee. Absent and not voting: Governors Jackson and Lilly.

[1] By action of this date, in a separate Order, the Board has denied FAC's application, filed pursuant to section 4(c)(9) of the Act (12 U.S.C. 1843(c)(9)), to retain Bates & Sons (Holdings), Limited.

[2] All banking data are as of December 31, 1975, and reflect bank holding company formations and acquisitions approved as of October 30, 1976.

[3] The Detroit banking market is approximated by Macomb, Oakland and Wayne Counties.

[4] In 1972, the Federal Deposit Insurance Corporation ("FDIC") rendered financial assistance to Bank in the form of $35.5 million in 5.5 percent Capital Notes which become due April 1, 1977.

[5] Voting for this action: Chairman Burns and Governors Gardner, Wallich Coldwell, and Partee. Absent and not voting: Governors Jackson and Lilly.

Board's prior approval.[1] Applicant now seeks the Board's approval to retain these shares. Bank ($8.6 million in deposits) is the 415th largest banking organization in Missouri, controlling 0.05 percent of the total deposits in commercial banks in the State.[2]

Bank is the only bank in Hickory County, which approximates the relevant geographic market. In view of the fact that Applicant already controls Bank and the proposal involves the retention of Bank shares acquired pursuant to a pro rata stock offering without any change in Applicant's percentage ownership of Bank, it does not appear that Applicant's retention of Bank's shares would have any adverse effect on existing or potential competition; nor would it increase the concentration of banking resources in any relevant area. Thus, competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant and Bank are generally satisfactory and the future prospects for each appear favorable. Accordingly, banking factors are consistent with approval. Although there will be no immediate increase in the services offered by Bank, convenience and needs considerations are also consistent with approval. Therefore, it is the Board's judgment that the retention of the shares of Bank would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above.

By order of the Board of Governors,[3] effective December 20, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37844 Filed 12-27-76;8:45 am]

MANUFACTURERS BANCORP, INC.

Formation of Bank Holding Company

Manufacturers Bancorp, Inc., Leavenworth, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 90.1 percent of the voting shares of Manufacturers State Bank, Leavenworth, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 12, 1977.

Board of Governors of the Federal Reserve System, December 17, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37848 Filed 12-27-76;8:45 am]

SCRIBNER BANKSHARES, INC.

Order Approving Formation of Bank Holding Company

Scribner Banshares, Inc., Scribner, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 96.1 percent or more of the voting shares of Scribner Bank, Scribner, Nebraska ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a corporation chartered in 1974 under the laws of the State of Nebraska, has been operating as a general insurance agency from the premises of Bank since the date of its organization and currently owns 3.3 percent of the shares of Bank. Applicant has now applied to the Board for permission to become a bank holding company through acquisition of an additional 96.1 percent or more of the shares of Bank.[1] Upon acquisition of those shares, Applicant would control the 11th largest banking organization in Nebraska with total deposits of approximately $12.5 million, representing 0.2 percent of total deposits held by commercial banks in the State.[2] Bank is the only bank in Scribner, Nebraska and is the third largest of eight banks in the relevant market,[3] controlling approximately 8.3 percent of the deposits therein.

Five of Applicant's principals are also directors and/or officers of other banks or bank holding companies in Nebraska, Iowa, and South Dakota. However, these banking organizations are located at considerable distances from Bank in different banking markets. Furthermore, inasmuch as the instant proposal to form a bank holding company represents a reorganization of the ownership by Bank by ten individuals to a corporation owned by the same individuals, it appears that the acquisition of Bank by Applicant would have no significant adverse effect upon either existing or potential competition. Accordingly, on the basis of the record, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant and Bank are regarded as satisfactory. The future prospects of Applicant are dependent upon those of Bank, which are also regarded as satisfactory. Although Applicant will incur acquisition debt in connection with this proposal, it appears that it will be able to serve this debt adequately without impairing the financial resources of Bank. Furthermore, it appears that the overall financial and managerial considerations with respect to the other one-bank holding companies in which principals of Applicant are involved are generally satisfactory. Therefore, considerations relating to banking factors are consistent with approval of the application.

Although consummation of the proposal would effect no changes in the services offered by Bank, the Board regards considerations relating to the convenience and needs of the community to be served as being consistent with approval. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[4] effective December 20, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37843 Filed 12-27-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

ADP PROCUREMENT CHANGES

Proposed Change—Procurement of ADPE Within the Federal Government

We have set forth below for your review and comment the substantive elements of certain planned procurement program changes, whereby both the Federal Supply Service (FSS) and the Automated Data and Telecommunications Service (ADTS) of the General Services Administration will establish multiple-award schedule type contracts for FSC Group 70 automatic data pro-

[1] Since 1957 the Board has had outstanding an interpretation of the Bank Holding Company Act that states, in part, that the "purchase of bank stock by a holding company through the exercise of rights does require the Board's prior approval." (Interpretations ¶ 7050, 12 CFR § 225.103). In accordance with the Board's position with respect to violations of the Act, the Board has scrutinized the underlying facts surrounding the acquisition of Bank's shares. Upon an examination of all the facts of record, including Applicant's undertaking to guard against violations in the future, the Board is of the view that the circumstances surrounding the violation are not such as would call for denial of the application.

[2] All banking data are as of December 31, 1975.

[3] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Lilly.

[1] Applicant will terminate its insurance agency business prior to consummation of the proposed bank holding company formation.

[2] All banking data are as of December 31, 1975.

[3] The relevant banking market is approximated by the boundaries of Dodge County.

[4] Voting for this action: Chairman Burns, and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Lilly.

cessing equipment (ADPE) and related services. When implemented, these changes should serve to: (a) Simplify and expedite numerous lower dollar value acquisitions of ADPE/services, and (b) eliminate any question as to whether a given item(s) falls within the FSC Group 70 category of ADPE, and therefore would or would not, as the case may be, be subject to the regulatory and policy controls that apply to ADPE procurements.

PLANNED CHANGES

1. To ensure that all ADPE contract items are properly identified, definitions of ADP as outlined in FPR 1-4.1102, will be applied to all items having questionable classification that are included in FSC Groups 58, 66, 67, 70 and 74 Schedule contracts.

Item descriptions for cataloging action has to be prepared. This function is to be completed during FY 77 by an FSS/ADTS task group team. Differences as to correct classification will be referred by FSS to the Defense Logistics Supply Center for binding classification determination.

2. FSS will be delegated multiple-award schedule contracting authority and responsibility for low dollar value FSC Group 70 ADP items that qualify by meeting *all* of the following criteria. Prior ADTS/FSS procurement agreements are to be subsequently realigned to meet these criterion:

(a) The ADPE must be a stand-alone item or system (defined as equipment that, when acquired, will be capable of fully meeting the operational mission for which acquired without connection to additional equipment). Related software, communications equipment, minor accessories or components may be awarded provided such items are uniquely applicable to the basic stand-alone item or system.

(b) The ADPE will not have a stand-alone item or system unit purchase price that exceeds $50,000. Appropriate MOL's for single order quantities will be established at levels that are appropriate for the product or grouping involved, but will not exceed $200,000. Requirements that exceed MOL's will be procured only under the authority of ADTS.

(c) The ADPE is not to be cataloged or marketed as a component of, or as a peripheral or accessorial item for, a major ADPE system. As referenced here a major ADPE system or item is any combination of equipment that has, along with other criteria, a purchase price in excess of $50,000. Appropriate controls are to be established to ensure that items appear on only one Schedule.

(d) FSS multiple-award schedule contracts for FSC Group 70 ADPE are to follow current Federal Procurement Regulations procedures and will initially be mandatory. However, contracts will be developed for agency use under simplified ADPE procurement regulations, which may subsequently become nonmandatory, for acquisitions up to $50,000 in value. Larger dollar value procurements will continue to require a specific delegation of procurement authority from ADTS.

3. ADTS will establish schedule contracts for all other ADPE and related services. ADTS will also adapt its schedule contracts to the same simplified procedures for procurements up to $50,000 that are referenced in (d) above, for FSS Schedule contracts.

Shifts of ADPE from FSS to ADTS contracts, and vice-versa, that may be necessary in accordance with (a) through (d) above will be accomplished in an orderly manner, with appropriate advance notice to vendors and ordering offices.

Please submit before January 31, 1977, any comments that you have regarding these proposed changes to:

Commissioner Theodore D. Puckorius, Automated Data and Telecommunications Service, General Services Administration, Room 3240, Washington, DC 20405.

Dated: December 1, 1976.

W. E. BURTON,
Acting Commissioner.

[FR Doc.76-37957 Filed 12-27-76; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0375]

COSMETIC LABELING

Termination of Provisional Listing of Carbon Black

The Food and Drug Administration (FDA) gives notice that existing stocks of cosmetic labeling for products formerly containing carbon black (all-gas channel black) and stating that the product contains "carbon black" in accordance with § 701.3 (21 CFR 701.3) of the cosmetic labeling regulations may continue to be used until supplies are exhausted or until September 23, 1977, whichever occurs first.

A regulation was published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41857) terminating the provisional listing, and, hence the approval, of carbon black (all-gas channel black) for use in food, drugs, and cosmetics, effective September 23, 1976. The preamble to that regulation (41 FR 41859) provided for use of food and drug labeling stating that the product contains "artificial color" because of the prior inclusion of carbon black (all-gas channel black) but did not mention cosmetic ingredient labeling. Section 701.3 requires that labeling of cosmetic packages identify the specific color additives that are used in the product.

The Commissioner of Food and Drugs is aware that in some cases alternative color additives for use in cosmetics may be difficult to obtain immediately. In addition, although alternative color additives may be available, revised package labeling specifically identifying the new color additive may not be immediately available, or large quantities of new labeling containing a declaration of ingredients my have been recently ordered and received by firms marketing cosmetics as required under § 701.3. The Commissioner concludes that a prohibition against the use of cosmetic labeling disclosing the presence of carbon black (all-gas channel black) could create undue hardship to firms marketing cosmetics in compliance with § 701.3. Therefore, he hereby gives notice that existing stocks of cosmetic labeling for products formerly containing carbon black (all-gas channel black) and stating that the product contains "carbon black" in accordance with § 701.3 may continue to be used until supplies are exhausted or until September 23, 1977, whichever occurs first, even though the cosmetic product no longer contains carbon black. Similarly, for products in which an alternative color additive is used to replace carbon black, existing supplies of labeling declaring carbon black without declaring the presence of alternative color additive may be used until supplies are exhausted or until September 23, 1977, whichever occurs first.

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-37503 Filed 12-27-76;8:45 am]

PANEL ON REVIEW OF BACTERIAL VACCINES AND BACTERIAL ANTIGENS

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Bacterial Vaccines and Bacterial Antigens Panel by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond December 22, 1976.

Authority for this panel will expire on December 22, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-37504 Filed 12-27-76;8:45 am]

[Docket No. 76F-0484]

SOUTHERN SIZING CO.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A3251) has been filed by the Southern Sizing Co., P.O. Box 90987, East Point, GA 30364, proposing that § 121.1099 *Defoaming agents* (21 CFR 121.1099) be amended to provide for the use of polypropylene glycol as a defoaming agent in the manufacture of edible protein.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 15, 1976.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc.76-37500 Filed 12-27-76;8:45 am]

BOARD OF TEA EXPERTS

Rechartering

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the rechartering of the Board of Tea Experts by the Commissioner, Food and Drug Administration, for an additional period of 2 years beyond January 3, 1977.

The charter for this committee will expire January 3, 1979.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate
Commissioner for Compliance.

[FR Doc.76-37815 Filed 12-27-76;8:45 am]

[Docket No. 76N-0356; DESI 1543]

CERTAIN ESTROGEN-CONTAINING DRUGS FOR ORAL OR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 76-28436, appearing at page 43114, in the issue of Wednesday, September 29, 1976, on page 43115, column 1 in the captioned designated "II" the first word should be "LONG" and not "LONH".

[Docket No. 76N-0261; DESI 2238]

CERTAIN PREPARATIONS FOR VAGINAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 28434, appearing at page 43110, in the issue of Wednesday, September 29, 1976, on page 43110, column 2, last paragraph, on the 7th line from the bottom and just before the word "labeling" insert "worded to coincide with the physician".

DENTIFRICE AND DENTAL CARE PANEL

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Dentifrice and Dental Care Panel by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond December 27, 1976.

Authority for this panel will expire on December 27, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc.76-37812 Filed 12-27-76;8:45 am]

[Docket No. 76N-0233]

HESS & CLARK, ET AL.

Nihydrazone (NF-64); Opportunity for Hearing On Proposal to Withdrawal Approval of Certain New Animal Drug Applications

Correction

In FR Doc. 76-23618 appearing at page 34908 in the issue for Tuesday, August 17, 1976 the following correction should be made. On page 34915 in the first column, third full paragraph, ninth line, the material which begins in parenthesis should read "(-CH-N-N". The correction appearing at 41 FR 43215, September 30, 1976 in item (2) is incorrect.

LAXATIVE, ANTIDIARRHEAL, ANTIEMETIC, AND EMETIC PANEL

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Laxative, Antidiarrheal, Antiemetic, and Emetic Panel by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond December 27, 1976.

Authority for this panel will expire on December 27, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc.76-37817 Filed 12-27-76;8:45 am]

TECHNICAL ELECTRONIC PRODUCT RADIATION SAFETY STANDARDS COMMITTEE

Rechartering

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the rechartering of the Technical Electronic Product Radiation Safety Standards Committee by the Commissioner, Food and Drug Administration, for an additional period of 2 years beyond December 24, 1976.

The charter for this committee will expire December 24, 1978.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc.76-37813 Filed 12-27-76;8:45 am]

TOPICAL ANALGESIC PANEL

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Topical Analgesic Panel, (which reviews antirheumatic, otic, burn, sunburn treatment and prevention drugs) by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond December 27, 1976.

Authority for this panel will expire on December 27, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc.76-37814 Filed 12-27-76;8:45 am]

[Docket No. 76N-0505]

DEVICE LISTING

Owners or Operators of Medical Device Establishments

The Food and Drug Administration (FDA) gives notice to owners or operators of device establishments of the procedures that will be followed by FDA to implement the device listing requirements of the Medical Device Amendments of 1976 (Pub. L. 94-295). Notice of the procedures is also given to manufacturers and repackagers of in vitro diagnostic product devices who previously voluntarily registered and listed their products with FDA in accordance with the drug registration procedures (21 CFR Part 207).

In the FEDERAL REGISTER of September 3, 1976 (41 FR 37458), FDA proposed regulations under the authority of the Medical Device Amendments to establish procedures for the registration of establishments in which devices intended for human use are produced. Those proposed regulations were issued to implement section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) relating to establishment registration and product listing.

Although section 510 of the act governs both establishment registration and

product listing, the Commissioner of Food and Drugs announced in the September 3, 1976 proposal that a more orderly implementation of section 510 of the act would be possible if these two functions were accomplished separately during the initial year of implementing the amendments. Therefore, the proposed regulation set forth the procedures related to the first function, namely, the registration of establishments producing devices. A second proposed regulation setting forth the procedures for device listing was to be published in the FEDERAL REGISTER at a later date. It was intended at the time of that FEDERAL REGISTER notice to accomplish both device establishment registration and product listing by December 31, 1976, as required by section 510 of the act.

This notice is to inform the owners or operators of medical device establishments that FDA will not require submission of device listing information by December 31, 1976. The procedures, forms, and other related information for device listing will be mailed to the designated Official Correspondent for each registered establishment when such information becomes available, after January 1, 1977. The registrants will be notified at that time when the forms must be completed and returned to the agency.

Owners or operators engaged in the manufacture, preparation, propagation, compounding, or processing of in vitro diagnostic device products who in the past have registered their establishment(s) and listed their in vitro diagnostic device products in accordance with procedures set forth in the regulations for the registration of producers of drugs and listing of drugs in commercial distribution (21 CFR Part 207), are advised to no longer submit update information on Forms FD-2656 (Registration of Drug Establishment) and FD-2657 (Drug Product Listing). Instead, such owners or operators are advised to register their establishment(s) as a device establishment pursuant to the September 3, 1976 proposal. Such owners or operators will be mailed procedures, forms, and other information relating to listing of their in vitro diagnostic device products at the same time as the other device manufacturers are so informed, as indicated above.

Dated: December 22, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76-38127 Filed 12-27-76;8:45 am]

WORKSHOP ON GUIDELINES FOR CLINICAL EVALUATION OF OSTEOGENETIC AND ANTIOSTEOGENETIC AGENTS

Open Meeting

The Food and Drug Administration announces a workshop on guidelines for clinical evaluation of osteogenetic and antiosteogenetic agents to be held on January 21, 1977, beginning at 9 a.m. in Conference Rooms G-H, Parklawn Building, 5600 Fishers Lane, Rockville, MD.

Speakers will include: J. Aloia, M.D.; R. P. Heaney, M.D.; C.C. Johnston, M.D.; J. Jowsey, Ph.D.; and R.P. Mazess, Ph.D..

Those interested in attending should notify A.T. Gregoire, Ph.D. (HFD-130), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3510. Attendance will be limited to space available.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76-37816 Filed 12-27-76;8:45 am]

Health Services Administration

ADVISORY COMMITTEE

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of February 1977:

INDIAN HEALTH ADVISORY COMMITTEE

Date and Time: February 7-8, 1977, 9:00 a.m.
Place: Conference Room 525-A & 529-A, South Portal Building, 200 Independence Ave., S.W., Washington, D.C. 20201. Open for entire meeting.
Purpose: The Committee advises the Secretary; Assistant Secretary for Health; Administrator, Health Services Administration; and Director, Indian Health Service, on health and other realted matters that have a bearing on the conduct of the Indian health program, as well as current and proposed regulations and policies.
Agenda: The Committee will discuss the current total Indian health administrative program operations, more specifically, the impact of the Indian Self-Determination Act and the Indian Health Care Improvement Act on the delivery of services, and other specific items of departmental interest and concern regarding Indian health endeavors.
The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Mose E. Parris, Room 5A-43, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1104.

INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

Date and Time: February 9, 1977, 9:00 a.m.
Place: Conference Rooms G & H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open for entire meeting.
Purpose: The Committee provides for the communication and exchange of information necessary to maintain the coordination and effectiveness among such Federal programs and activities and make recommendations to the Secretary respecting the administration of grants and contracts under Title XII, including making regulations for the emergency medical services systems program.
Agenda: Proposed agenda items for this meeting include: New regulations for Public Law 94-573, fiscal year 1977 budget, mandated committee reports required under Public Law 94-573, local EMS problems in utilizing controlled drugs and implementation strategy for the burn legislation.
The meeting is open to the public for observation. Anyone wishing to attend, obtain the roster of members, minutes of meeting, or other relevant information should contact Mr. John D. Reardon, 6525 Belcrest Road, Hyattsville, Maryland 20782, Telephone (301) 436-6280. Public seating is limited to forty (40). Please contact at least 72 hours before the meeting.

NATIONAL ADVISORY COUNCIL ON MIGRANT HEALTH

Date and Time: February 15-17, 1977, 9:00 a.m.
Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open for entire meeting.
Purpose: The Committee is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator Health Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 310 of the Public Health Service Act.
Agenda: The members of the Council will consider the following: (1) Organization and structure of the Council; (2) function of Health Systems Agencies; (3) the relationship of the Health Professions Educational Assistance Act of 1976 to manpower needs of Migrant Health Projects; (4) the definition of migrant vs. seasonal farmworker; (5) the Migrant Health Regulations; (6) the Migrant Hospitalization Program; (7) Environmental Health Services; (8) Bureau common reporting requirements; and (9) Intrestate Entitlement Projects and Third Party Reimbursements.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Billy M. Sandlin, Room 7A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1153.

Agenda items are subject to change as priorities dictate.

Date: December 20, 1976.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator for Management.

[FR Doc.76-37953 Filed 12-27-76;8:45 am]

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on January 6-7, 1977, at the National Institute of Education, 1200 19th Street NW., Washington, D.C., in Room 823. The meeting will convene at 9 a.m., and adjourn at 5 p.m., January 6th and on January 7th, convene at 8:30 a.m., and adjourn at 4 p.m.

The National Council on Educational Research is established under section 405

(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

The meeting will be open to the public except for the closed session on January 7th. The tentative agendas are as follows:

JANUARY 6, 1977

PUBLIC SESSION

9:00	Convene.
9:00–12:00	NCER Committee Meetings.
12:00–1:00	Lunch.
1:00–4:00	Report of Executive Committee: A. Policy Framework, Existing Policies and New Policy Issues; B. NCER Handbook; C. NCER/NIE Staff, Working Relationships (e.g., decision-making processes).
4:00–5:00	Report of Review and Reports Committee: A. Review Process; B. FY 1977 Report; Feature Topic.

JANUARY 7, 1977

PUBLIC SESSION

8:30–9:00	Director's General Report.
9:00–10:00	Report of Program Committee and NIE Staff: Curriculum Policy Issues.

EXECUTIVE SESSION

10:00–1:30	FY 1978 Budget.
(12:15–1:00)	(Working Luncheon).

PUBLIC SESSION

1:30–3:00	FY 1979 Planning Guidance.
3:00–4:00	Final Actions and Future Agendas.

The closed session will consist of a discussion of the FY 1978 Budget which has not yet been released by the Executive Branch of the Federal Government. This is in accordance with the Council's policy that all sessions be open unless they concern confidential budgetary or personnel information or concerns other matters requiring confidentiality. This policy is consistent with the provisions of the Federal Advisory Committee Act.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and Mrs. Ella L. Jones, Administrative Coordinator of the Council, at the address shown below.

In accordance with Council Policy (NCER Resolution No. 013074-8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Administrative Coordinator. Resolutions are available shortly after the particular meeting at which adopted. Because minutes require approval by the Council at a subsequent meeting, they are usually available approximately four to six weeks after the date of the meeting to which they refer.

In order to verify the tentative agendas, or assure adequate seating arrangements, interested persons are requested to contact the Administrative Coordinator, National Council on Educational Research, whose address and telephone number are listed below:

National Council on Educational Research, National Institute of Education, Washington, D.C. 20208, Telephone: 202/254-7900.

Dated: December 22, 1976.

HAROLD L. HODGKINSON,
Director, National Institute of Education.

[FR Doc.76-38042 Filed 12-27-76;8:45 am]

National Institutes of Health

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, on January 13-16, 1977, at the Marina Del Rey Hotel, Surf Room, Marina Rel Rey, CA 90291.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. subject to space available. The purpose of the meeting will be to discuss recommendations for the interim Commission report and to consult with the Science Advisory Board of the Hereditary Disease Foundation.

Dr. Nancy S. Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Bldg. 31, Room 8A11, Bethesda, MD 20014, (301) 496-9175, will provide substantive program information.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, NINCDS, Bldg. 31, Room 8A02, Bethesda, MD 20014, (301) 496-5751, will provide summaries of the meeting and rosters of Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: December 16, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-37825 Filed 12-27-76;8:45 am]

DIVISION OF RESEARCH RESOURCES AND GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

Meeting

Notice is hereby given of the meeting of representatives from the General Clinical Research Centers Committee and of the Division of Research Resources, January 17, 1977, National Institutes of Health, Building 31, Room 4B13, Bethesda, Maryland 20014. The meeting will be open to the public from 10:30 a.m. to 5 p.m., during which time the report, "Assuring the Resources for Biomedical Research, An Evaluation of the Scientific Mission of the Division of Research Resources (DRR), NIH," conducted by the Research Resources Evalnation Panel and coordinated by Bolt, Beranek and Newman, Inc., Cambridge, Massachusetts, will be discussed. The representatives will focus their deliberations on recommendations relevant to the General Clinical Research Centers Program of DRR, NIH, with particular reference to the evaluation of the role of the General Clinical Research Centers Program in the scientific mission of the Division of Research Resources. Responses to recommendations in the report will be developed. Attendance by the public will be limited to space available.

Mr. James Augustine, Information Officer, Division of Research Resources, Maryland 20014, (301) 496-5545, will Building 31, Room 5B39, Bethesda, provide information pertaining to the meeting.

Dr. Ephraim Y. Levin, Executive Secretary, General Clinical Research Centers Committee, Building 31, Room 4B13, Bethesda, Maryland 20014, (301) 496-6595, will furnish substantive information.

(Catalog of Federal Domestic Assistance Program No. 13.333 National Institutes of Health.)

Dated: December 17, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-37826 Filed 12-27-76;8:45 am]

GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee on February 14 and 15, 1977, from 9 a.m. to 5 p.m., at the National Institutes of Health, Building 31, Conference Room 9, Bethesda, Maryland. This meeting will be open to the public from 9 a.m. to 10 a.m. on February 14, 1977, to discuss administrative reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5 U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to

the public on February 14, 1977, from 10 a.m. to 5 p.m. and on February 15, 1977, from 9 a.m. to 5 p.m. for the review, discussion and evaluation of initial pending, renewal, and supplemental grant applications. The closed portions of the meetings involve solely the internal expression of views and judgments of Committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B39, Bethesda, Maryland 20014, telephone (301) 496-5545, will furnish rosters of Committee members, and summaries of the meetings. Dr. Ephraim Y. Levin, Executive Secretary, General Clinical Research Centers Committee, Bldg. 31, Room 4B13, Bethesda, Maryland 20014, (301) 496-6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.333, National Institutes of Health.)

Dated: December 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-37828 Filed 12-27-76;8:45 am]

NATIONAL ADVISORY GENERAL MEDICAL SCIENCES COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, February 3-4, 1977, Building 31C, Conference Room 6. This meeting will be open to the public on February 3 from 9 to 5 p.m. for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 4 from 9 a.m. to adjournment for the review, discussion and evaluation of initial pending, supplemental, and renewal grant applications; and applications for the National Research Service Awards. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications which contain information of proprietary or confidential nature, including detailed research protocols; designs and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20014, Telephone: 301, 496-7301, will provide a summary of the meeting and a roster of Council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, Building 31, Room 4A52, Telephone: 301, 496-5231, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13-859, 13-860, 13-861, 13-862, 13-863, National Institutes of Health.)

Dated: December 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-37827 Filed 12-27-76;8:45 am]

PHARMACOLOGY-TOXICOLOGY RESEARCH PROGRAM COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pharmacology-Toxicology Research Program Committee, National Institute of General Medical Sciences, March 3-4, 1977, National Institutes of Health, Building 31C, Conference Room 8, Bethesda, Maryland.

This meeting will be open to the public on March 3 from 9 a.m. to 10 a.m. for opening remarks and general administrative business. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 3 from 10 a.m. to 5 p.m. and on March 4 from 9 a.m. to 5 p.m. for the review, discussion, and evalaution of initial pending and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications which contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data such as salaries; and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20014, Telephone: 301, 496-7301, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Raymond E. Bahor, Executive Secretary, Westwood Building, Room 919, Bethesda, Maryland, Telephone: 301, 496-7707.

(Catalog of Federal Domestic Assistance Program 13-859, Pharmacology-Toxicology Program, National Institute of General Medical Sciences, National Institutes of Health.)

Dated: December 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-37829 Filed 12-27-76;8:45 am]

Office of Education

TITLE I AUDIT APPEAL

Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972, as amended by 41 FR 28568, July 12, 1976), an application for an appeal before the Board has been received from the State of West Virginia and it has met the jurisdictional requirements of section 5 of the Notice establishing the Board.

The appeal involves the allowability of expenditures of $53,710 made by the Wayne County local education agency during fiscal year 1973 from funds allotted to the agency for fiscal year 1971. The Audit Control Number is 50008-03, Docket 13-(28)-76.

The prehearing conference will be held at 10:30 a.m. on February 3, 1977, in Room 4173, 400 Maryland Avenue, SW., Washington, D.C.

Section 7(c) of the Notice setting up the Board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to crossexamine other writnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before January 24, 1977.

(20 U.S. 241a, 1232c.)

(Catalog of Federal Domestic Assistance Number 13.428, Educationally Deprived Children—Local Educational Agencies.)

Dated: December 20, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.76-37952 Filed 12-27-76;8:45 am]

Office of Human Development

CHILDREN'S BUREAU

Statement of Organization, Functions, and Delegations of Authority

Chapter 1R40 of the statement of organization, function, and delegations of authority of the Department of Health, Education, and Welfare which relates to the Office of Child Development of the Office of Human Development (40 FR 28657), July 8, 1975, is amended to reflect the transfer of the Day Care Services Division from the Head Start Bureau to the Children's Bureau.

The revisions to effect this transfer are as follows: delete present section 1R40.-

20B.5; add a new section 1R40.20C.5 as follows:

5. *Day Care Division.* Responsible for the development of policies, strategies, standards, manuals, and guidance materials for the conduct of experiments, demonstrations, and operational programs in the field of day care. Actively encourages development at the Federal, State, and local levels of effective day care services.

Dated: December 20, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.76-38048 Filed 12-27-76;8:45 am]

Office of the Secretary

REVIEW PANEL ON NEW DRUG REGULATION

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Review Panel on New Drug Regulation, established pursuant to 42 USC 217a. by the Secretary of Health, Education, and Welfare, on Sunday, January 9, 1977, at 5:30 p.m. to 8:30 p.m. and Monday, January 10, 1977, at 8:30 a.m. to 5:30 p.m., in Room 5051 of the Department of Health, Education, and Welfare's North Building, 330 Independence Avenue, SW, Washington, D.C. The Review Panel will consider matters pertaining to its study of existing policies and procedures for the regulation of new drugs by the Food and Drug Administration. The meeting is open to the public.

Further information on the Review Panel may be obtained from John D. Rust, Executive Secretary, Review Panel on New Drug Regulation, Room 1187 Donahoe Building, 330 Independence Avenue, SW, Washington, D.C. 20201, telephone (202) 472-3000.

JOHN D. RUST,
Executive Secretary, Review Panel on New Drug Regulation.

DECEMBER 16, 1976.

[FR Doc.76-37949 Filed 12-27-76;8:45 am]

STUDENT FINANCIAL ASSISTANCE STUDY GROUP

Hearing and Meeting

The Student Financial Assistance Study Group was established by public notice on August 27, 1976, to advise the Secretary of Health, Education, and Welfare on ways to implement more effectively and efficiently the Student Financial Assistance Programs administered by the Department. These programs include the Basic Educational Opportunity Grants Program (BEOG), the Guaranteed Student Loan Program (GSL), the Supplemental Educational Opportunity Grants Program (SEOG), the National Direct Student Loan Program (NDSL), the College Work-Study Program (CWS), and the State Student Incentive Grant Program (SSIG).

Notice is hereby given pursuant to Pub. L. 92-463 that the Student Financial Assistance Study Group will hold a hearing to receive suggestions on all topics related to its study and in particular issues related to "Delivery Systems", defined as those various administrative mechanisms used to deliver financial assistance to students. The public hearing will be held on Thursday, February 3, 1977, in Room 1300 of the Department of Health, Education, and Welfare's Region VI Office, 1200 Main Tower Building, 1200 Commerce Street, Dallas, Texas, 75202, from 9:30 a.m. to 3:00 p.m. This hearing is part of the Student Financial Assistance Study Group's efforts to review management and administrative issues related to the student assistance programs.

Outline of the study. The Student Financial Assistance Study Group at its November meeting outlined, in broad terms, the following major areas to be included in the Study.

1. Introduction — background. There will be an introduction which, from a historical base, will analyze why the current management and administrative problems exist in the federal student aid programs and why the Student Financial Assistance Study Group was established.

2. Eligibility. This section of the study will address the process for determining eligibility to receive federal funds and to participate in the student aid programs. The study will critically review, the process for determining and terminating eligibility for states, institutions, student and lenders.

3. Delivery system. The delivery system for providing financial assistance to students through the various mechanisms currently in force will also receive the attention of the Study Group. This will include the application process, panel review process, allotment of funds, packaging of aid and student budget process. The Group intends to give consideration to the timing of payments to students and to institutions; the roles of the federal central office and regional offices in the administration of the programs; the roles of the states, the educational institutions, the private sector service organizations, and the lending institutions in the administration of the programs.

4. Program management and integrity. The organization structure, policies, and procedures used to manage the programs to insure program integrity, coordination, and control will be the focus of this section of the Study. The Study will look at management systems in general, including communications, training, technical assistance, and data acquisition; the incentives and disincentives for program integrity; the appeal processes; the efforts to prevent and eliminate fraud and abuse; and the procedures for evaluating performance of institutions, agencies, and individuals.

At its January public hearing the Study Group members received testimony principally addressing issues related to eligibility. At the public hearing which this notice announces, the Study Group is particularly interested in receiving comments and suggestions on issues related to the Delivery System. A brief statement of some of the issues identified to date in this area is presented below.

The delivery systems. The following is an initial identification of what may be included in the topics to be considered in this part.

A. *Information systems.* How is information distributed to parents, students, and others about these programs? Who should be responsible for distribution of information?

Are students fully informed as to both their rights and their responsibilities when they participate in these programs? Is the information requested from applicants, so complex, that it prevents those in the greatest need from applying? Is all of the requested information necessary? Or is more information needed to serve program objectives? Is there a way to determine the validity and accuracy of information provided? Do institutions and student financial aid officers have sufficient information on their rights and responsibilities for operating these programs?

B. *Allocation of funds.* The programs vary in the ways funds are initially allocated to states and institutions for final distribution to students. The State Student Incentive Grant Program provides dollar-for-dollar matching grants to states which are based on formulas related to higher education enrollment in the states. The allocation of funds for the three campus-based programs is also based on formulas related to the numbers of students enrolled in each state, but the funds are actually distributed to institutions, not states. In the case of the Basic Educational Grant Program, funds are allocated directly to students based on an entitlement formula.

Do the current methods result in equity, effectiveness and efficiency? Should there be common policies and procedures across program lines? What should be the role of the states in the allocation process?

C. *Application and awards process.* The application and awards process to institutions for the three campus-based programs have been a subject of considerable debate and question. Attempts have been made to simplify the application process by use of a "short form"; however, this leads to other problems. According to a GAO report, the current system lends itself to serious abuse which results in unfair advantage and inequity in the final award process.

Currently, students apply for BEOG funds from one national center. At the present time, institutions of postsecondary education are not authorized a role in the application process, and some have questioned if there should be some monitoring responsibility for the institutions, particularly to control and correct errors and, where possible, prevent fraud and abuse.

In the use of SSIG funds, there has been some movement to limit the flexi-

bility currently available to the states in awarding funds. Will this provide equity and efficiency and promote effective use of these funds, or will it only add problems to an already complex student financial aid delivery system?

States agencies currently have major responsibilities for operation of GSLP and efforts are underway to encourage further growth in this area. What problems are there in the need to provide national uniform and consistent policies and procedures, as the states assume even more responsibility? What should the role of the institutions be in this process?

In all parts of the delivery system, there needs to be a due process or appeals procedure. How should this be structured when there are various offices and individuals assigned responsibility for program operation? Where should responsibility be fixed?

What is the impact of the student's budget and the packaging process on the amount of funds received by the student? Is there a need for national standards and guidelines to achieve fairness and equity in the award process?

D. *Payment of funds.* The Guaranteed Student Loan Program has recently proposed the institution of an "Escrow System" as a means to provide multiple disbursements to students and to prevent fraud and abuse. The program is also planning to establish other new procedures. What is the best and most reasonable way to dispense the funds to students? For example, should the college be asked to cosign the check; should the funds be dispersed in monthly installments? Will the new multiple disbursement procedures create other problems not present in the system?

Under the Basic Educational Opportunity Grant Program, funds are sent to the institution based on an estimate of the number of students the institution will serve. The institutions have no well-defined procedure or responsibility to correct errors in award amounts, and sometimes find themselves paying funds that they believe are not accurate. Some institutions have made use of these funds for other than the intended purposes. Students have been able to receive duplicate payments and have received funds for educational purposes with no true intent to seek an education. What changes are needed to improve this system and, in particular, eliminate situations of fraud and abuse?

For all programs, there is a need to have a practical means to limit, suspend, and terminate payment of funds in cases of serious abuse and fraud. Currently, the system makes this process difficult.

There have also been delays in making funds available on a timely basis to institutions. As a result, institutions have had to use their own limited funds, and students have concerns that commitments for assistance will not be fulfilled.

A subsequent public hearing will emphasize issues related to Program Management and Integrity.

Dr. John A. Perkins, Chairman of the Student Financial Assistance Study Group, will preside at the hearing. Persons wishing to testify should submit their requests in writing to: Mrs. Mary Jane Calais, Staff Director, Student Financial Assistance Study Group, Room 325H, South Portal Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-9855. Requests to testify should reach Mrs. Calais not later than January 25, 1977. Persons wishing to present written statements for the record are encouraged to do so. Such written statements should be received by the Student Assistance Study Group not later than January 25, 1977.

The hearing will be open for public observation.

Pursuant to Pub. L. 92-463, notice is also hereby given of a meeting of the Student Financial Assistance Study Group to be held on Friday and Saturday, February 4 and 5, 1977 from 9:00 a.m. until 5:00 p.m. each day, in Room 1300 of the HEW Region VI Office, 1200 Main Tower Building, 1200 Commerce Street, Dallas, Texas.

The meeting will be used to review and discuss available information, to plan for future study activities, and to make staff work assignments. Members of the Public are invited to attend the meeting. Because of limited metting accommodations, reservations are recommended. Persons wishing to attend should notify the Study Group Staff Director by mail at Room 325H, 200 Independence Avenue, S.W., Washington, D.C. 20201, or by telephone at (202) 245-9855.

MARY JANE CALAIS,
Staff Director, Student Financial Assistance Study Group.

DECEMBER 22, 1976.

[FR Doc.76-38049 Filed 12-27-76;8:45 am]

Social Security Administration

TRUST TERRITORY OF THE PACIFIC ISLANDS

Finding Regarding Foreign Social Insurance or Pension System

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health, Education, and Welfare finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof are paid on account of old age, retirement, or death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to the authority duly vested in the Commissioner of Social Security by the Secretary of Health, Education, and Welfare, and redelegated to him, the Director of the Bureau of Retirement and Survivors Insurance has approved a finding that the Trust Territory of the Pacific Islands, beginning July 1, 1976, has a social insurance system of general application which pays periodic benefits on account of old age, retirement, or death, and under which citizens of the United States, not citizens of the Trust Territory of the Pacific Islands, who leave the Trust Territory of the Pacific Islands, are permitted to receive such benefits or their actuarial equivalent at the full rate without qualification or restriction while outside that territory.

Accordingly, it is hereby determined and found that the Trust Territory of the Pacific Islands, has in effect, beginning July 1, 1976, a social insurance system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

PASQUALE F. CALIGIURI,
Director, Bureau of Retirement and Survivors Insurance.

[FR Doc.76-37830 Filed 12-27-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-76-672]

SEA-AIR ESTATES

Hearings

In the matter of: Sea-Air Estates, Douglas R. Gaines, President and Sea-Air Estates, Inc.; 76-308-IS, OILSR No. 0-4242-09-1075. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that:

1. Sea-Air Estates, Douglas R. Gaines, President and Sea-Air Estates, Inc., authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, *et seq.*) received a Notice of Proceedings and Opportunity for Hearing issued October 15, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Sea-Air Estates, located in Monroe County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make

the statements therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 5, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW, Washington, D.C., on January 28, 1977 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before January 5, 1977.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: November 23, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-38067 Filed 12-27-76;8:45 am]

[Docket No. N-76-671]

TIBURON (CAINE WOODS)

Hearing

In the matter of: Tiburon (Caine Woods) a/k/a Parker Estates, B.T.W. & Associates, William B. Ingersoll, 76-315-IS, OILSR No. 0-4233-24-70. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160 (b).

Notice is hereby given that:

1. Tiburon (Caine Woods) a/k/a Parker Estates, B.T.W. & Associates, William B. Ingersoll, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, *et seq.*) received a Notice of Proceedings and Opportunity for Hearing issued October 21, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Tiburon (Caine Woods), located in Worcester County, Maryland, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 10, 1976 in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW, Washington, D.C., on February 9, 1977 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before January 11, 1977.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: December 1, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-38066 Filed 12-27-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA

Cancellation of Meeting

The meeting of the Phoenix District Multiple Use Advisory Board scheduled for January 14, 1977, Notice of which appeared in FEDERAL REGISTER Vol. 41, No. 239, page 55034 of the issue of December 10, 1976, is hereby cancelled.

Dated: December 20, 1976.

W. K. BARKER,
District Manager.

[FR Doc.76-38007 Filed 12-27-76;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before Dec. 17, 1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by January 7, 1977.

JERRY L. ROGERS,
Acting Chief, Office of Archeology and Historic Preservation.

CALIFORNIA

Alameda County

Oakland, *Treadwell Mansion and Carriage House*, 5212 Broadway.

ILLINOIS

Kane County

Batavia, *Chicago, Burlington, and Quincy Railroad Depot*, 155 Houston St.

Lake County

Lake Forest, *Lake Forest Historic District*, roughly bounded by Western, Westleigh, Lake Michigan and northern city limits.

McLean County

Hudson, *Gildersleeve House*, 108 Broadway.

Shelby County

Shelbyville, *Chatauqua Auditorium*, Forest Park at NE. 9th St.

INDIANA

Marion County

Indianapolis, *Northside*, roughly bounded by I-65, Bellefontaine, 16th, and Pennsylvania Sts.

KANSAS

Brown County

Hiawatha vicinity, *Davis Memorial*, 0.5 mi. E of Hiawatha.

Chase County

Elmdale vicinity, *Clover Cliff Ranch House*, 4 mi. SW of Elmdale.

Crawford County

Pittsburg, *Pittsburg Public Library*, 4th and Walnut.

Doniphan County

Wathena, *Harding, Benjamin, House*, 303 N. 5th.

Douglas County

Baldwin City, *Parmenter Memorial Hall*, 8th and Dearborn.

Lyon County

Emporia, *Soden, Hallie B., House*, 802 S. Commercial.

Shawnee County

Topeka, *Davies Building*, 725-727 Kansas Ave.

Wyandotte County

Kansas City, *Rosedale World War I Memorial Arch*, Mt. Marty Park.
Kansas City, *Sauer Castle*, 945 Shawnee Dr.

KENTUCKY

Bell County

Cubage vicinity, *Hensley Settlement*, S of Cubage on Cumberland Gap National Historic Park.

Washington County

Springfield, *Washington County Courthouse*, Public Sq.
Springfield vicinity, *Walton Manor Cottage (John Pope Law Office)*, 2 mi. W of Springfield on KY 150.

MISSOURI

Buchanan County

St. Joseph, *Wholesale Row*, bounded by Jules, 3rd, 4th, and Francis Sts.

Charlton County

Keytesville, *First Presbyterian Church*, Hill and East Sts.

Cooper County

Boonville, *Boller House*, 223 E. Spring St.
Pilot Grove vicinity, *Pleasant Green*, 8 mi. SW of Pilot Grove on U.S. 135.

Dade County

South Greenfield vicinity, *Dilday Mill*, SE of South Greenfield on Turnback Creek.

Dunklin County

Campbell vicinity, *Chalk Bluff*, W of Campbell.

Marion County

Hannibal, *Mark Twain Historic District*, roughly bounded by the Mississippi River, U.S. 36, 3rd, and Bird Sts.

Pemiscot County

Portageville vicinity, *The Fort (23PM-53)*, W of Portageville.

Ralls County

Hannibal vicinity, *Garth, John, House*, S of Hannibal off U.S. 61.

Saline County

Marshall, *First Presbyterian Church*, 212 E. North St.
Marshall, *Saline County Courthouse*, Courthouse Sq.

MONTANA

Sanders County

Thompson Falls vicinity, *Salish House Site*, S of Thompson Falls.

NEW JERSEY

Burlington County

Burlington vicinity, *Irick, John, House (Copany Way)*, E of Burlington off NJ Tnpk.
Moorestown, *Town Hall*, 40 E. Main St.

Camden County

Haddonfield vicinity, *Barclay Farm House*, NE of Haddonfield near jct. of I-295 and NJ 70.

Essex County

Newark, *Salaam Temple (Newark Symphony Hall)*, 1020 Broad St.

Gloucester County

Pitman, *Pitman Grove*, bounded by Holly, East, Laurel, and West Aves. (both sides).

Mercer County

Titusville vicinity, *Phillips, Joseph, Farm*, N of Titusville on Hunter Rd.

NEW MEXICO

Santa Fe County

Santa Fe vicinity, *Madrid Historic District*, 25 mi. SW of Santa Fe on NM 14.

NEW YORK

Queens County

Flushing, *Bowne, John, House*, 37-01 Bowne St.

PENNSYLVANIA

Allegheny County

East Pittsburgh, *George Westinghouse Memorial Bridge*, U.S. 30 over Turtle Creek.

Philadelphia County

Philadelphia, *Bellevue Stratford Hotel*, 200 S. Broad St.

RHODE ISLAND

Providence County

Manville vicinity, *Cole, John, Farm*, E of Manville on Reservoir Rd.

UTAH

Morgan County

Mountain Green, *Deserter Point*, I-80.

VERMONT

Lamoille County

Johnson, *Nye Block*, Main and Railroad Sts.

WASHINGTON

Chelan County

Wenatchee, *U.S. Post Office and Annex*, Mission and Yakima Sts.

WEST VIRGINIA

Lewis County

Weston, *Weston State Hospital*, River St.

WISCONSIN

Ashland County

LaPointe, *LaPointe Indian Cemetery*, S. Old Main St.

[FR Doc.76-37626 Filed 12-27-76;8:45 am]

Office of the Secretary

COMMITTEE ON FUTURE ENERGY PROSPECTS NATIONAL PETROLEUM COUNCIL

Meeting

Notice is hereby given for following meeting:

The National Petroleum Council's Committee on Future Energy Prospects will meet on Friday, January 14, 1977, at 10 a.m. in the Mount Vernon Room of the Madison Hotel, 15th and M Streets NW, Washington, D.C.

The agenda includes the following items for discussion:

1. Review and discuss progress on completion of individual discussion papers.
2. Discuss overall plans and timetable for completion of study.
3. Discuss any other matters pertinent to the overall assignment of the Committee.

The purpose of the National Petroleum Council is to provide to the Secretary of the Interior, upon request, advice, information, and recommendations upon any matter relating to petroleum or the petroleum industry.

The meeting will be open to the public to the extent that space and facilities permit. Any member of the public may file a statement with the Council either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Council and obtain approval in accordance with its established procedures.

Further information about the meeting may be obtained from Ben Tafoya, Office of the Assistant Secretary—Energy and Minerals, Department of the Interior, Washington, D.C. (telephone: 343-6226).

Dated: December 21, 1976.

ROBERT L. PRESLEY,
Staff Assistant, Emergency Preparedness, Office of the Assistant Secretary—Energy and Minerals.

[FR Doc.76-37950 Filed 12-27-76;8:45 am]

WATCHES AND WATCH MOVEMENTS

Rules For Allocation of Quotas For Calendar Year 1977 Among Producers Located In the Virgin Islands, Guam and American Samoa

CROSS REFERENCE: For a document concerning the above entitled matter, issued jointly by the Department of Commerce and by the Department of the Interior, see FR Doc. 76-38069, in the notices section of this issue under Department of Commerce, Office of the Secretary.

DEPARTMENT OF JUSTICE

Antitrust Division

PROPOSED CONSENT JUDGMENT IN UNITED STATES v. SAKS & COMPANY, ET AL., AND COMPETITIVE IMPACT STATEMENT THEREON

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Southern District of New York in *United States of America v. Saks & Company, et al.*, Civil Action No. 74-4391. The complaint in this case alleges that the three defendant stores conspired to fix the price of women's clothing in the New York Metropolitan Area in violation of section 1 of the Sherman Act. The proposed judgment enjoins the defendant stores from agreeing to fix prices or markups for the sale of women's clothing, from agreeing to establish dates for the reduction of prices or markups, and from agreeing to establish, police or adhere to any manufacturer's suggested or other retail prices or markups. The proposed judgment also enjoins the defendant stores from engaging in specified unilateral attempts to influence other retailers or clothing manufacturers, and from communicating certain pricing and other information to such retailers or manufacturers.

Public comment is invited on or before February 24, 1977. Such comments and

responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Bernard Wehrmann, Chief, New York Office, Antitrust Division, Department of Justice, 26 Federal Plaza, New York, New York 10007.

Dated: December 16, 1976.

CHARLES F. B. MCALEER,
Assistant Section Chief, Judgments & Judgment Enforcement Section.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Saks & Company; Bergdorf Goodman Inc.; and Genesco Inc.*, Defendants.

Civil Action No. 74 Civ. 4391 (HFW).

Filed: December 16, 1976.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to the Plaintiff and Defendants in this and any other proceeding.

For the Plaintiff: Donald I. Baker, *Assistant Attorney General;* William E. Swope, Richard J. Favretto, Charles F. B. McAleer, Bernard Wehrmann, Melvin Lublinski, Edward F. Corcoran, *Attorneys, Department of Justice.*

For the Defendants: Solinger & Gordon, by John C. Grosz, a member of the firm, *Attorneys for Saks & Company;* Wormser, Kiely, Allessandroni and McCann, by Lawrence M. McKenna, a member of the firm; Covington & Burling, by Lawrence M. McKenna, for Virginia Watkin, a member of the firm, *Attorneys for Bergdorf Goodman Inc.;* Donovan Leisure Newton & Irvine, by Sanford M. Litvack, a member of the firm, *Attorneys for Genesco Inc.*

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Saks & Company; Bergdorf Goodman Inc.; and Genesco Inc.*, Defendants.

Civil Action No. 74 Civ. 4391 (HFW).

Filed: December 16, 1976.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on October 7, 1974, and Defendants Saks & Company, Bergdorf Goodman Inc., and Genesco Inc., having appeared by their attorneys, and the Plaintiff and the Defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and upon the consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the Defendants under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" means any individual, corporation, partnership, firm, association or other business or legal entity.

(B) "Women's clothing" means dresses, suits, coats, separates, sportswear, swimwear, beachwear and other items of outerwear intended to be worn by women, but excluding shoes, millinery and accessories.

(C) "Defendant stores" means Saks & Company, Bergdorf Goodman Inc., and the Bonwit Teller Division of Genesco Inc.

(D) "Affiliated companies" means corporations in which 50% or more of the voting stock is owned by a Defendant store's parent or which are in fact controlled by such parent.

III

The provisions of this Final Judgment, as applied herein to any Defendant or Defendant store, shall also apply to each of their officers, directors, agents, employees, subsidiaries, successors and assigns, to each of the officers, directors, agents and employees of each of their respective subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply to transactions or communications between a Defendant store and its subsidiaries, affiliated companies, parent or any company which owns 100% of the voting stock of its parent.

IV

Each Defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by the Defendant store in the marketing of women's clothing, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court, and serve upon the Plaintiff, its consent to be bound by this Final Judgment.

V

(A) Each Defendant store is enjoined and restrained from entering into, adhering to, maintaining, furthering or enforcing, directly or indirectly, any agreement, understanding, plan or program with any other person to:

(1) Raise, fix, stabilize or maintain prices, markups or other terms or conditions at which any women's clothing is offered for sale at retail within the United States;

(2) Establish or determine dates for the reduction of prices or markups on any women's clothing offered for sale at retail within the United States;

(3) Establish, issue, police, enforce or adhereto any manufacturer's suggested or other retail prices or markups for any women's clothing offered for sale at retail within the United States.

(B) Each Defendant store is enjoined and restrained from acting, either unilaterally or in concert with any other person, directly or indirectly, to induce, coerce or attempt to influence:

(1) Any manufacturer to establish, issue, police or enforce any manufacturer's suggested or other retail prices or markups for any women's clothing offered for sale at retail within the United States;

(2) Any other retailer to adhere to any manufacturer's suggested or other retail prices or markups for any women's clothing offered for sale at retail within the United States;

(3) Any other person to establish or determine dates for the reduction of prices or markups on any women's clothing offered for sale at retail within the United States.

VI

(A) Each Defendant store is enjoined and restrained from communicating, directly or indirectly, to any other retailer of women's clothing or any manufacturer of women's clothing, information concerning:

(1) The actual or proposed prices, price changes, markups, or markup changes on any women's clothing it offers for sale at retail within the United States, other than proposed prices or markups for items of women's clothing communicated to the manufacturer of the clothing solely for the purpose of negotiating lower wholesale prices for the clothing;

(2) The actual or proposed prices, price changes, markups, or markup changes on any women's clothing offered for sale at retail by any third person within the United States;

(3) Any third person's refusal to adhere to or intention not to adhere to any manufacturer's suggested or other retail prices or markups for any women's clothing offered for sale at retail within the United States;

(4) Any third person's refusal to change or intention not to change its prices or markups on any women's clothing offered for sale at retail within the United States;

(5) The actual or proposed dates on which any third person intends to reduce the prices or markups on any women's clothing it offers for sale at retail within the United States.

Beginning three years after entry of this Final Judgment, nothing in Paragraph A(1) of this Section shall prevent a Defendant store from arranging with a manufacturer from which it has purchased women's clothing that such manufacturer affix to the clothing tickets setting forth prices specified by the Defendant store to the manufacturer within thirty (30) days prior to the date set for delivery.

(B) Each Defendant store is enjoined and restrained from communicating, directly or indirectly, to any other retailer of women's clothing, information concerning the actual or proposed dates on which it intends to reduce the prices or markups on any women's clothing it offers for sale at retail within the United States.

(C) Each Defendant store is enjoined and restrained from soliciting or accepting from any other retailer or from any manufacturer any actual or proposed price or markup list pertaining to any women's clothing where the Defendant store knows or has reason to believe that the list was promulgated by any retailer other than the Defendant store.

VII

Each Defendant store is ordered and directed to:

(A) For a period of ten (10) years from the date of entry of this Final Judgment, take affirmative steps (including, but not limited to, distribution of this Final Judgment, written directives setting forth corporate compliance policies and meetings to review the terms and obligations of this

Judgment) to advise each of its officers and directors and each of its buyers, assistant buyers, store managers and other employees having managerial or supervisory authority in the purchase or pricing of women's clothing offered for sale at retail within the United States of its and their obligations under this Final Judgment and of the criminal penalties for violation of Sections V and VI of this Final Judgment;

(B) For a period of ten (10) years from the date of entry of this Final Judgment, distribute a conformed copy thereof to all successors of each individual presently holding any position described in subsection (A) of this Section upon the entry on duty of each such successor;

(C) Within sixty (60) days after entry of this Final Judgment, furnish a conformed copy thereof to each of its suppliers of women's clothing offered for sale at retail within the United States from whom purchases of women's clothing during the calendar year 1975 exceeded $25,000;

(D) File with this Court and mail to the Plaintiff, within ninety (90) days after entry of this Final Judgment, an affidavit setting forth the fact and manner of compliance with subsection (C) of this Section VII;

(E) File with this Court and mail to the Plaintiff on each anniversary date of this Final Judgment, for a period of ten (10) years from the date of entry thereof, an affidavit of the officer responsible for the performance of the Defendant store's obligations under subsections (A) and (B) of this Section VII setting forth all steps the Defendant store has taken during the preceding year to discharge such obligations.

VIII

(A) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, each Defendant shall permit duly authorized representatives of the Department of Justice, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to such Defendant at its principal office, subject to any legally recognized privilege:

(1) Access, during the regular business hours of such Defendant, who may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the Defendant which relate to any matters contained in this Final Judgment;

(2) Subject to the reasonable convenience of the Defendant, and without restraint or interference from it, to interview any officers or employees of Defendant, who may have counsel present, regarding any matters contained in this Final Judgment.

(B) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, each of the Defendants shall submit such reports in writing, under oath if so requested, with respect to any matters contained in this Final Judgment as may from time to time be requested in writing by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division.

(C) No information obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

X

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Saks & Company; Bergdorf Goodman Inc.; and Genesco Inc.*, Defendants.

Civil Action No. 74 Civ. 4391 (HFW).

Filed: December 16, 1976.

PROPOSED CONSENT DECREE: COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)–(h)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

NATURE AND PURPOSE OF THE ACTION

On October 7, 1974, the Department of Justice filed a civil antitrust action alleging that Saks & Company, Bergdorf Goodman Inc., and Genesco Inc., through its Bonwit Teller Division, had combined and conspired to raise, fix, stabilize and maintain retail prices of women's clothing in the New York Metropolitan Area in violation of Section 1 of the Sherman Act. It was alleged that as a result of the conspiracy the prices of women's clothing were fixed and maintained at artificial and noncompetitive levels depriving customers of free and open competition and restraining competition.

The Department of Justice requested that the Court enjoin the defendants from continuing the alleged conspiracy and engaging in any other conspiracy having similar purpose or effect.

DESCRIPTION OF THE PRACTICES GIVING RISE TO THE ALLEGED VIOLATION

According to the complaint, the defendant companies are among the largest retailers specializing in the sale of women's clothing in the New York Metropolitan Area. In 1972 they accounted for approximately $70 million in area retail sales. The defendant companies use mark up lists in pricing the items of clothing they sell to consumers. Their markup lists consist of a column showing each price level at which the store purchases women's clothing and a corresponding column showing the retail price to be charged for items purchased at that cost level. The complaint alleged that beginning at least as early as the late 1960's, the defendant stores allegedly engaged in a course of conduct through which they jointly established uniform prices through the adoption of uniform markup lists, maintained adherence to such prices, induced manufacturers to use such uniform prices as their suggested retail prices, induced manufacturers to police such suggested retail prices, and set dates for the beginning of clearance periods during which uniform retail prices were reduced.

EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment provides specific measures to dispel the anticompetitive effects alleged by the complaint. Saks & Company, Bergdorf Goodman Inc., and Bonwit Teller Division of Genesco Inc. are enjoined and restrained from entering into any agreement or arrangement to fix the price of women's clothing they offer for sale in the United States, to establish sales dates, or to establish, police or adhere to any manufacturer's suggested price list. Furthermore, the three defendant stores are each barred from inducing or attempting to influence any manufacturer to issue or police a suggested price list and from inducing or attempting to influence any retailer to adhere to a manufacturer's suggested price list or to establish sale dates. Such conduct is forbidden on the part of the defendant store regardless of whether it is acting unilaterally or in concert with others. Moreover, each defendant store is prohibited from communicating certain information regarding its own pricing policies and sales date policies or those of its competitors. However, certain limited communications with manufacturers are permitted for the purpose of negotiating lower wholesale prices for clothing being purchased. Additionally, after a three-year moratorium period, each defendant store will be permitted to request manufacturers to "pre-ticket" items by marking them with retail prices specified by the defendant store. Each defendant store is also barred from soliciting or accepting a markup list which it knowns or has reason to believe was promulgated by a competitor. Finally, each defendant store will be required to take affirmative steps to advise each of its officers, directors, store managers, buyers, assistant buyers and certain other employees of their responsibilities under the decree and to furnish a copy of the decree to each supplier from whom 1975 purchases of women's clothing exceeded $25,000.

COMPETITIVE EFFECTS OF THE PROPOSED CONSENT JUDGMENT

It is anticipated that the proposed consent judgment will have the effect of eliminating the conspiracy which restrained price competition and restoring price competition among the defendants.

ALTERNATIVE REMEDIES CONSIDERED BY THE GOVERNMENT

One alternative to the proposed consent judgment considered by the Antitrust Division was a full trial on the merits. The Antitrust Division determined that the judgment provided substantially all of the relief which might reasonably be expected following a trial and a decision favorable to the Government, without the commitment of manpower and delay involved in a trial.

The Antitrust Division also considered a consent decree which was different in several respects from the decree presently proposed. Initially, the Antitrust Division considered a decree with a definition of women's clothing which was broader than that definition set forth in the complaint but did not insist upon that definition as there was no assurance of obtaining such relief after trial. Similarly, the Antitrust Division did not insist upon more encompassing notification provisions because the procompetitive benefits would have been marginal when compared to the expense of carrying out such provisions.

The Antitrust Division also agreed to permit two limited types of communications which it initially proposed to prohibit. These are communications by a defendant store to a manufacturer of certain retail pricing in-

formation for the purpose of facilitating negotiating of lower wholesale prices and, aftr a three-year moratorium period, to enable the manufacturer to pre-ticket purchased garments. The latter is a potential cost-saving device while the former may encourage lower retail prices. The decree also permits a defendant store to advise a manufacturer of its sales date plans to ensure delivery by the manufacturer of special purchase and other goods.

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies which they would have had, were the proposed consent judgment not entered. However, this judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is subject to a stipulation by and between the United States and the defendants, which provides that the United States may withdraw its consent to the proposed judgment until the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed judgment provides for retention of jurisdiction of this action in order, among other things, to permit any of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any persons believing that the proposed judgment should be modified may, for a 60-day period, submit written comments to the United States Department of Justice, Antitrust Division, New York, New York 10007, which will file with the Court and publish in the FEDERAL REGISTER such comments and its response to such comments. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

DETERMINATIVE DOCUMENTS

There are no materials or documents which the Government considered determinative in formulating this proposed consent judgment. Therefore, none are being filed with this Competitive Impact Statement.

EDWARD F. CORCORAN,
MELVIN LUBLINSKI,
Attorneys, Department of Justice.

[FR Doc.76-38008 Filed 12-27-76;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEES ON PRODUCTIVITY AND TECHNOLOGICAL DEVELOPMENTS AND FOREIGN LABOR AND TRADE

Meeting

There will be a joint meeting of the BRAC Committees on Productivity and Technological Developments and Foreign Labor and Trade on January 17, 1977, at 1 p.m., in Room S4215 (A, B, and C), New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. The agenda for the meeting is as follows:

1. Status of work on Trade Statistics Monitoring System;

2. Comparative measures and hourly compensations among countries;

3. Development of quarterly industry productivity measures.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 523-1559.

Signed at Washington, D.C. this 20th day of December 1976.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.76-37869 Filed 12-27-76;8:45 am]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 20th day of December, 1976.

BEN BURDETSKY,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending December 17, 1976

Name of applicant	Location of enterprise	Principal product or activity
Irvin A. Miller	Washington, Pa	Lease of store facilities.
Cumberland Mills, Inc.	Eton, Ga	Manufacture of tufted textile-carpet.
Co. O. Smith, Jr.	Moultrie, Ga	Manufacture of nitrogenous fertilizer materials.
McDonald Supply Co	Americus, Ga	Retail and industrial sales of hardware.
Thurman C. Ellis	Whiteville, N.C	Rebuilding of auto, farm and industrial engines.
Tommie Corp	Thorsby, Ala	Production of iron castings (lightweight).
National Livestock Equipment, Inc.	Cullman, Ala	Manufacture of livestock handling equipment.
Anne Maria Medical Care Nursing Home, Inc.	North Augusta, S.C.	Nursing home.
Rocky River Mills, Inc.	Wadesboro, N.C	Manufacture of livestock and poultry feed.
Wingerts Inc.	Mayville, Mich	Supermarket.
Curtis Corp	New London, Wis	Manufacture of architecturally specified institutional and residential doors.
The Texas Brick Co	Brownwood, Tex	Manufacture of brick products.
Larry R. Burck	Millersburg, Ia	Retail and wholesale tire dealer.
The Eugene Squire Motel	Eugene, Oreg	Motel.

[FR Doc.76-37935 Filed 12-27-76;8:45 am]

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Solicitation of Grant Applications From Governors

1. *Definitions.* As used in this notice, the term "States" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands; and the term "Governors" means the chief executives of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

2. *Purpose.* The purpose of this notice is to request each Governor to apply for a project grant under the Senior Community Service Employment Program (SCSEP). The SCSEP is authorized by Title IX of the Older Americans Act as added by the Older Americans Amendments of 1975 (Pub. L. 94–135) and is governed by the regulations at Title 29 of the Code of Federal Regulations, Part 89 (41 FR 9066, March 2, 1976).

3. *Scope.* The funds available in connection with this solicitation represent a portion of those that were appropriated for Community Service Employment for Older Americans by the Departments of Labor and Health, Education, and Welfare, and Related Agencies Appropriations Act, Fiscal Year 1977 (Pub. L. 94–439). In the Conference Report that attended the Appropriations Act (House of Representatives Conference Report No. 94–1384), congressional intent with regard to the use of these funds was explained as follows:

> The conferees are agreed that the amount in the bill, $90,600,000 will support a level of 22,600 jobs and shall be utilized for a 12-month period beginning July 1, 1977, and ending June 30, 1978. During this period, it is the intent of the conferees that 18,800 jobs be allocated to national contractors and that 3,800 jobs be allocated to the States according to the formula in the basic law.

The Department of Labor has determined that $15,234,000 is needed to support the 3,800 jobs which the Congress has designated for States. Accordingly, the portion of the appropriation to which this solicitation pertains is $15,234,000. From this amount, specific allotments have, consistent with the formula set forth in Pub. L. 94–135, been reserved for each State. The Department of Labor hereby requests each Governor to apply for the State's full allotment from the $15,234,000.

4. *Background.* (a) *Program Description.* The SCSEP, which was put into opration in 1974, employs low-income persons, aged 55 and above, in part-time community service jobs. With their wages subsidized by the Federal government, program participants may work in a wide variety of activities, such as day care centers, schools, hospitals, senior citizens centers, and beautification, conservation and restoration projects. In addition to subsidized employment, the program also provide participants with yearly physical examinations, personal and job-related counseling, job training and, in some cases, placement into regular, unsubsidized jobs. While offering participants a welcome income supplement, the SCSEP offers the communities in which it operates a federally supported pool of manpower which can be drawn upon to augment existing services or to create new ones.

(b) *Current status of the SCSEP.* SCSEP projects currently operate in every State and Territory and in the District of Columbia and the Commonwealth of Puerto Rico. The great majority of these projects are now being sponsored by five national-level organizations: Green Thumb, Inc. (an arm of the National Farmers Union); the National Council on the Aging; the National Council of Senior Citizens; the National Retired Teachers Association—American Association of Retired Persons; and the U.S. Forest Service. Combined, these five organizations sponsor all SCSEP projects now being conducted in 47 States; Washington, D.C.: and Puerto Rico. In the 3 States and 4 Territories not covered by these organizations (Alaska, Delaware, Hawaii, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands), SCSEP projects are being sponsored by the State and Territorial governments. In total, about 15,000 part-time job positions are currently being supported under the SCSEP. All grants for existing projects, which have been funded from a Fiscal Year 1976 appropriation, will complete on June 30, 1977.

(c) *Continuing role for the national sponsoring organizations.* The five national organizations named above will continue to serve as project sponsors under the SCSEP. From the $90,600,000 that was appropriated to support the SCSEP during the period of July 1, 1977, through June 30, 1978, the Department of Labor has reserved $75,366,000 for use by these five organizations. This is the amount that the Department of Labor has determined will be needed to support the 18,800 jobs which the Congress has designated for "national contractors".

(d) *Coordination between the national sponsoring organizations and the State and Territorial governments.* The Department of Labor has instructed the national sponsoring organizations to communicate formally with the governments of those States in which they will be operating SCSEP projects during the 12-month period beginning July 1, 1977. In this regard, the national sponsors will, by no later than January 14, 1977, provide to the State agency on aging a copy of its written plan for activities in the State. This plan will identify separately: (i) The existing local projects that are planned for continuation and (ii) any new local projects which the sponsor intends to implement. The State agencies on aging are invited to make written recommendations to the national sponsors regarding these plans with particular respect to the locations in the States where the new projects are most needed. The national sponsors have been instructed to give full and careful consideration to the recommendations of the State agencies on aging in selecting sites for the new projects. Cooperation and coordination between the national sponsors and the State governments (through the State agencies on aging) will be vital with the respect to the avoidance of duplicative or competitive project activities. The comments of the State agencies on aging are being requested pursuant to section 903(a) of Title IX of the Older Americans Act.

5. *Allotments reserved for States.* Following are the allotments from the $15,234,000 which the Department of Labor has reserved for each State:

Alabama	$268,000
Alaska	277,000
Arizona	144,000
Arkansas	183,000
California	1,080,000
Colorado	126,000
Connecticut	159,000
Delaware	277,000
District of Columbia	100,000
Florida	722,000
Georgia	298,000
Hawaii	277,000
Idaho	100,000
Illinois	577,000
Indiana	323,000
Iowa	193,000
Kansas	151,000
Kentucky	248,000
Louisiana	240,000
Maine	100,000
Maryland	195,000
Massachusetts	371,000
Michigan	474,000
Minnesota	246,000
Mississippi	187,000
Missouri	353,000
Montana	100,000
Nebraska	101,000
Nevada	100,000
New Hampshire	100,000
New Jersey	403,000
New Mexico	100,000
New York	1,058,000
North Carolina	354,000
North Dakota	100,000
Ohio	646,000
Oklahoma	205,000
Oregon	154,000
Pennsylvania	817,000
Puerto Rico	170,000
Rhode Island	100,000
South Carolina	177,000
South Dakota	100,000
Tennessee	302,000
Texas	708,000
Utah	100,000
Vermont	100,000
Virginia	272,000
Washington	199,000
West Virginia	146,000
Wisconsin	302,000
Wyoming	100,000
American Samoa	138,000
Guam	138,000
Trust Territory of the Pacific Islands	138,000
Virgin Islands	138,000

6. *Application procedures.* (a) *General.* There are two basic steps involved in the grant application process. First, the Governor must notify the Department of Labor of the State's intent to apply for

the SCSEP grant. This is accomplished by submitting a properly completed preapplication to the Department. Second, the Governor must submit a properly completed grant application, along with a partially completed grant signature sheet, to the Department of Labor. Necessary preapplication and application materials and instructions have been forwarded to each Governor.

(b) *Department of Labor receiving office.* Preapplications and applications must be submitted to:

Office of National Programs, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building—Room 6402, 601 D Street, NW, Washington, D.C. 20213; Attention: Title IX Grants.

(c) *Preapplication.* The preapplication must be submitted to the Office of National Programs no later than February 28, 1977. Receipt of the preapplication will be acknowledged promptly, in writing, by the Office of National Programs.

(d) *Application.* The application and the partially completed grant signature sheet must be submitted to the Office of National Programs no later than April 30, 1977. The Department of Labor will review the application to determine if it is complete and assures the operation of a project consistent with the specifications described in paragraph (e) of this section and with applicable laws and regulations. In the event the Department of Labor finds that an application is not acceptable for funding, the Department will advise the Governor as to the inadequacies and will permit the State to submit a corrected application until May 31, 1977.

(e) *Specifications.* The following specifications must be reflected in the preapplication and the application:

(1) *Proposed funding.* The Federal share of the proposed funding must be no more than the allotment specified in section 4 of this notice. The non-Federal share must be no less than 10 percent of the total cost proposed.

(2) *Project start date.* The project start date must be indicated as being July 1, 1977.

(3) *Project duration.* The project duration must be indicated as being 12 months. On the grant signature sheet, the grant period must be indicated as being from July 1, 1977 to June 30, 1978.

7. *Award.* Provided that the application (or the corrected application) is found acceptable for funding, the Department of Labor will award the grant to the State on or before June 30, 1977.

8. *Conditions for exclusive consideration.* The Department of Labor will consider the Governor as the presumptive recipient of the State's allotment from the $15,234,000 provided that the Governor meets the stated deadlines for filing the preapplication and the application and submits a properly completed grant application that assures the operation of a project consistent with the specifications described in section 6(e) of this notice and with the requirements of applicable laws and regulations. In the event these conditions are not met, the Department of Labor may take steps to award the State's allotment to one or more of the national sponsoring organizations mentioned previously.

9. *Governors that determine not to apply.* In the event a Governor determines not to apply for the State's allotment from the $15,234,000 the Governor may specify to the Department of Labor the national sponsoring organization(s), of the five mentioned previously, it wishes to receive the allotment. If the Governor wishes to make such a specification, this should be done in writing to the Office of National Programs no later than February 28, 1977. If it is at all reasonable to do so, the Department of Labor will act in accordance with the request of the Governor in this matter.

10. *Recommended role for State agencies on aging.* The Department of Labor, with the concurrence of the Federal Administration on Aging, urges the Governor of each State to consult the State agency on aging with regard to the decision on whether or not to apply for the available allotment. If the State determines to apply for the allotment, the State agency on aging should be involved in the development of the State's grant application in order to ensure that the SCSEP activities to be undertaken by the State are coordinated with those of the national SCSEP sponsors and with programs and activities administered by the State and area agencies on aging. This role for State agencies on aging is outlined in section 903(a) of Title IX of the Older Americans Act, pursuant to which the Department of Labor has instructed the national sponsoring organizations to forward copies of their respective plans to State agencies on aging for review and comment.

11. *Recommended role for State manpower services councils.* In the regulations that govern the SCSEP (29 CFR, Part 89), section 89.17, Cooperative relationships, states:

Each (SCSEP) project sponsor shall, to the maximum extent feasible, establish and maintain cooperative relationships and working linkages with . . . manpower and manpower related agencies and, in particular, with agencies operating programs through the Department (of Labor), including State employment security agencies, prime sponsors under title I of the Comprehensive Employment and Training Act of 1973, and State manpower services councils. • • •

In light of the fact that the State manpower services council has a general responsibility to foster coordination between employment and training activities within the State, this responsibility could usefully be extended to the SCSEP. That is, the Governor could call upon the State manpower services council to make specific recommendations as to how and to what extent SCSEP activities should be coordinated or linked with those of the State employment security agency and of State and local prime sponsors under the Comprehensive Employment and Training Act.

12. *Responsible agency.* In the regulations that govern the SCSEP (29 CFR, Part 89), § 89.55, Single State agency not required, states:

No single State agency or multimember board or commission need be established or designated to administer or supervise the administration of grant projects under (Title IX of) the (Older Americans) Act.

A Governor has discretion, therefore, to place responsibility for the administration and operation of the State's SCSEP grant in whichever State agency or organizational unit is deemed most appropriate. Moreover, a Governor may implement projects at the local level through subgrants with units of local government and private nonprofit organizations. Regardless of the agency or agencies designated by the Governor to administer activities under the State's SCSEP grant, the recommendation appearing in section 10 of this notice aspertains to the consultative role of the State agency on aging should be followed.

Signed at Washington, D.C. this 20th day of December 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-37880 Filed 12-27-76;8:45 am]

Occupational Safety and Health Administration

ALASKA STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of Federal standards as State standards by reference. Section 1952.243 of Subpart R sets forth the State's schedule for the adoption of Federal standards.

By letters dated September 20 and 24, 1976, from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910, Subpart R, §§ 1910.265 and 1910.266 as published in the FEDERAL REGISTER on May 29, 1971 (36 FR 10466) These standards, which are contained in Article 2 of Subchapter 7 of the State's Wood Products Code, were promulgated by the

State on August 31, 1976, by resolution by the Alaska Department of Labor pursuant to AS 18.60.020 in accordance with the Alaska Administrative Procedures Act.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards with the exceptions of grammatical improvements and additional State original standards, and accordingly are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Technical Data Center, Occupational Safety and Health Administration, New Department of Labor Building, Room N3620, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. *Public participation.* Section 1953.2 (c) of this chapter provides that where State standards are identical to or "at least as effective" as comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law, they are approved without an opportunity for further public comment.

This decision is effective December 28, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this 29th day of October 1976.

JOHN A. GRANCHI,
Acting Regional Administrator.

[FR Doc.76-37875 Filed 12-27-76;8:45 am]

[V-76-9]

JOSLYN MANUFACTURING AND SUPPLY CO.

Grant of Variance

I. BACKGROUND

Joslyn Manufacturing and Supply Company, 2 North Riverside Plaza, Chicago, Illinois 60606 made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance and an interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.22(c) and 1910.23(c)(3). Section 1910.22(c) requires that covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, etc. Section 1910.23(c)(3) requires that all galvanizing tanks be guarded with a standard guardrail and toeboard. Section 1910.23(e)(1) states that a standard guardrail shall consist of top rail, intermediate rail, and post and shall have a vertical height of 42 inches nominal from upper surface of top rail to floor, platform, runway, or ramp level. The purpose of the standards is to protect the employees from falls into these particularly hazardous areas. The facility affected by this application is:

Empire Galvanizing Plant, Joslyn Manufacturing and Supply Company, 10909 Franklin Park, Franklin Park, Illinois 60131.

Notice of the application, and of the granting of the interim order, was published in the FEDERAL REGISTER on July 23, 1976 (41 FR 34721). The notice invited interested persons, including affected employers and employees to submit written data, views and arguments regarding the grant or denial of the variance requested. In addition, employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant operates two galvanizing kettles. Kettle one had a protective wall 23½ inches in height and 29½ inches in width; kettle two had a protective wall 27½ inches in height and 24½ inches in width.

The applicant asserts that the erection of a 42 inch guardrail around its galvanizing tank would seriously interfere with necessary work practices such as skimming the zinc and may create additional hazards of splashing hot zinc.

Instead of the standard guardrail, the applicant has modified the protective wall of each kettle by increasing their heights (from 23½ inches and 27½ inches) to 32 inches.

III. DECISION

Section 1910.22(c) requires that guardrails be provided to protect personnel from the hazards of open pits, tanks, etc. Section 1910.23(c)(3) requires that regardless of height, opensided floors, walkways, platforms or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units or similar hazards shall be guarded with a standard railing and toeboard.

In the work situation described, the 24½ inch and 29½ inch ledge widths prevents an employee from accidentally stepping into the kettles. The 32 inch side heights are sufficient for an employee to right himself if he should fall toward the kettle. The combination of side height and ledge width, combined with the applicant (1) assuring that no employee walks, steps, or sits on the ledge around the tank and (2) training the employees regarding the proper performance of the operation and the hazards associated with walking, stepping, and sitting on the ledge around the tank, provides protection as safe as that which would be provided by use of a standard guardrail and toeboard.

IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in the Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that Joslyn Manufacturing and Supply Company be, and it is hereby authorized to continue its operation while using its two galvanizing kettles having ledges 24½ inches and 29½ inches in width and 32 inch side heights, in lieu of the standard guardrail required by 29 CFR 1910.22(c) and 1910.23(c)(3) provided that:

1. No employee shall walk, step, or sit on the ledges around the kettles.

2. Training and information regarding the hazards associated with and the prohibition against walking, stepping or sitting on the ledge around the tank shall be provided for current employees within one week of the effective date of this variance, for new employees at the time of their initial assignment, and for all employees on a quarterly basis after their initial training.

As soon as possible, Joslyn Manufacturing and Supply Company shall give notice to affected employees of the terms of the order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on December 28, 1976, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 17th day of December, 1976.

B. M. CONCKLIN,
Deputy Assistant Secretary of Labor.

[FR Doc.76-37872 Filed 12-27-76;8:45 am]

[V-74-49]

METALPLATE AND COATINGS, INC.

Grant of Variance

I. Background

Metalplate and Coatings, Inc., 500 Selig Drive, SW, Atlanta, Georgia 30336 made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the safety standards prescribed in 29 CFR 1910.22(c) and 1910.23(c)(3). Section 1910.22(c) requires that covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, vats, ditches etc. Section 1910.23(c)(3) requires that all galvanizing tanks be guarded with a standard guardrail and toeboard. Section 19.10.23(e)(1) states that a standard guardrail shall consist of top rail, intermediate rail, and post and shall have a vertical height of 42 inches nominal from upper surface of top rail to floor, platforms, runway or ramp level. The pur-

pose of the standards is to protect employees from falls into these particularly hazardous areas. The facility affected by this application is:

Metalplate and Coatings, Inc., 500 Selig Drive, SW., Atlanta, Georgia 30336.

Notice of the application, and of the granting of an interim order, was published in the FEDERAL REGISTER on September 27, 1974 (39 FR 34721). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant has a galvanizing tank that is built below the floor level with sides rising 24 inches above floor level. The top of this wall is a ledge 27½ inches wide.

The applicant asserts that the erection of a 42-inch guardrail around its galvanizing tank would seriously interfere with the moving of items into and out of the tank and with the skimming of the zinc.

The applicant had originally planned to widen the ledge by adding a two inch pipe running parallel to the ledge around the periphery of the tank and six inches from it. This two inch pipe has not proven durable. Instead of the standard guardrail and toeboard, the applicant has modified the wall of the tank by increasing the width to 32 inches and the height to 30 inches.

The applicant provides training to the employees regarding the proper performance of the operation and the hazards associated with walking, stepping, or sitting on the ledge around the tank.

III. DECISION

Section 1910.22(c) requires that guardrails be provided to protect personnel from the hazards of open pits, tanks, etc. Section 1910.23(c)(3) requires that regardless of height, opensided floors, walkways, platforms or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units and similar hazards shall be guarded with a standard railing and toeboard.

In the work situations described, the 30 inch side height prevents an employee from accidentally stepping into the tank. The 32 inch ledge width is sufficient to allow an employee to right himself if he should lose his balance and fall toward the tank. The combination of side height and ledge width, combined with the applicant assuring that no employee walks, steps, or sits on the ledge around the tank and the training of employees, provides protection as safe as that which would be provided by use of a standard guardrail and toeboard.

IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that Metalplate and Coatings, Inc., be, and it is hereby, authorized to continue its operations while using its galvanizing tank having sides 30 inches high and ledges 32 inches wide, in lieu of the standard guardrail and toeboard required by 29 CFR 1910.22(c) and 1910.23(c)(3), provided that:

1. No employee shall walk, step, or sit on the ledge around the tank;

2. Training and information regarding the hazards associated with and the prohibition against walking, stepping or sitting on the ledge around the tank shall be provided for current employees within one week of the effective date of this variance, for new employees at the time of their initial assignment, and for all employees on a quarterly basis after their initial training.

As soon as possible Metalplate and Cotings, Inc., shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on December 28, 1976, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 17th day of December, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37871 Filed 12-27-76; 8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH SUBGROUPS ON POLICY/BUDGET, STANDARDS, AND COMPLIANCE

Meetings

Notice is hereby given that the Subgroups on Policy/Budget, Standards, and Compliance of the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on the following dates:

Policy/Budget, January 13, 1977
Standards, January 27, 1977
Compliance, February 2, 1977

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act. The Committee has established Subgroups on Policy/Budget, Standards, and Compliance to assist in carrying out its responsibilities.

All Subgroup meetings will be held in Room N-4437, Department of Labor Building, 3rd Street and Constitution Avenue, NW, Washington, D.C. 20210. The meetings will begin at 9 a.m. The public is invited to attend.

The Policy/Budget Subgroup will examine the monitoring of state plans, the OSHA-NIOSH interface, and if time permits economic and inflationary impact assessments.

The Standards Subgroup will discuss the Standards Completion Project and related issues.

The Compliance Subgroup will discuss new concepts in compliance techniques, employee discrimination complaints under Section 11(c) of the Act, and the role of the Compliance Safety and Health Officer in achieving safety and health objectives.

For additional information contact:

J. Goodell, Chief, Committee Management Office, Room N-3635, OSHA-Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210. Phone: (202) 523-8024.

Any written data or views concerning these agenda items or suggestions for future agenda items which are received by the Committee Management Office before the scheduled meeting dates, preferably with 20 copies, will be presented to the Subgroup and included in the official record of the meeting.

Anyone wishing to make an oral presentation should notify the Committee Management Office before the meetings. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentation will be scheduled at the discretion of the Subgroup Chairman, depending on the extent to which time permits.

Official records of the meetings will be available for public inspection at the above address.

Signed at Washington, D.C. this 16th day of December 1976.

J. GOODELL,
Executive Secretary.

[FR Doc.76-37874 Filed 12-27-76;8:45 am]

[V-75-13]

SMITH INDUSTRIES, INC.

Grant of Variance

I. BACKGROUND

Smith Industries, Inc., 8300 Hempstead Highway, Houston, Texas 77008 made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the safety and health standards prescribed in 29 CFR 1910.22 (c) and 1910.23(c)(3). Section 1910.22 (c) requires that covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, vats, ditches, etc. Section 1910.23 (c)(3) requires that all galvanizing tanks be guarded with a standard guardrail and toeboard. Section 1910.23(e) states that a standard guardrail shall consist of top rail, intermediate rail, and post and shall have a vertical height of 42 inches nominal from upper surface of top rail to floor, platform, runway, or ramp level. The purpose of the standard is to protect employees from falls into these particularly hazardous areas. The facility affected by this application is as follows:

Smith Industries, Inc., 8300 Hempstead Highway, Houston, Texas 77008.

Notice of the application, and of the granting of the interim order, was published in the FEDERAL REGISTER on December 23, 1975 (40 FR 59384). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance request. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant has a galvanizing tank in its Fastener Division which has a wall around it 24¾ inches in height and 33½ inches in width.

The applicant asserts that the erection of a 42 inch guardrail around its galvanizing tank would seriously interfere with necessary work practices such as skimming the zinc and may create additional hazards of splashing hot zinc.

Instead of the standard guardrail and toeboard, the applicant has installed a 6 inch guardrail on top of the existing wall, bringing the dimensions to a 30¾ inch height and 33½ inch width.

III. DECISION

Section 1910.22(c) requires that guardrails be provided to protect personnel from the hazards of open pits, tanks, etc. Section 1910.23(c)(3) requires that regardless of height, opensided floors, walkways, platforms or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units or similar hazards shall be guarded with a standard railing and toeboard.

In the work situation described, the 33½ inch ledge width prevents an employee from accidentally stepping into the tank. By installing the 6 inch guardrail on top of existing wall, it has effectively lengthened the side height to 30¾ inches. This height is sufficient to allow an employee to right himself if he should fall towards the tank. The combination of side height and ledge width, combined with the applicant (1) assuring that no employees walks, steps or sits on the ledge around the tank and (2) training the employees regarding the proper performance of the operation and the hazards associated with walking, stepping, and sitting on the ledge around the tank, provides protection as safe as that which would be provided by use of a standard guardrail and toeboard.

IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in the Secretary of Labor's Order No. 8–76 (41 FR 25059), it is ordered that Smith Industries, Inc., be, and it is hereby authorized to continue its operation while using its galvanizing tank having ledges 33½ inches wide and sides (including the 6 inch guardrail), 30¾ inches high, in lieu of the standard guardrail and toeboard required by 29 CFR 1910.22(c) and 1910.23(c)(3) provided that:

1. No employee shall walk, step, or sit on the ledge around the tank.

2. Training and information regarding the hazards associated with and the prohibition against walking, stepping or sitting on the ledge around the tank shall be provided for current employees within one week of the effective date of this variance, for new employees at the time of their initial assignment, and for all employees on a quarterly basis after their initial training.

As soon as possible, Smith Industries, Inc., shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on December 28, 1976, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 17th day of December, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37873 Filed 12-27-76;8:45 am]

VIRGINIA

Dismissal of Rejection Proceedings

Notice is hereby given that on October 26, 1976, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) and the Commissioner of Labor and Industry for the Commonwealth of Virginia (hereinafter referred to as the Commissioner), by counsel, jointly moved for dismissal of the proceedings for rejection of the Virginia Occupational Safety and Health Plan. Notice of that proposed rejection was published at 39 FR 27844, August 1, 1974. The joint motion to dismiss was granted on the date of the motion, based upon the Assistant Secretary's approval of the amended Virginia Plan pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. § 667) and 29 CFR Part 1902, notice of which was published at 41 FR 42655, September 28, 1976. In light of the approval of the amended plan it was agreed by the parties that there remained nothing to be determined in the instant proceedings.

Signed at Washington, D.C. this 17th day of December 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37878 Filed 12-27-76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

NORTH PENN EMPLOYEES' SAVINGS PLAN AND PENCO SAVINGS AND PROFIT SHARING PLAN

Exemption From Prohibitions

Correction

In FR Doc. 37227, appearing at page 55664, in the issue of Tuesday, December 21, 1976, the following changes should be made:

1. On page 55664, in column 1, paragraph 1, line 10, where "604" appears twice, it should read "406", and on the last line of that paragraph the FR page number should read "18471" instead of "18741".

2. On page 55665, column 3, in the first full paragraph, on line 4, the address for the Internal Revenue Service should read "1111" instead of "111".

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Pendency of Proposed Exemption Relating to a Transaction Involving Iron Workers' Apprentice Fund (Application No. L–341)

Notice is hereby given of the pendency before the Department of Labor (the Department) of a proposed exemption from the restrictions of sections 406(a) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act). The pending exemption was requested in an application filed by the Iron Worker's Apprentice Fund (the Plan) for the purchase by the Plan of one acre of unimproved real property from the Iron Workers' Local Union No. 84 (the Union).

The application was filed pursuant to section 408(a) of the Act and in accordance with the procedure set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Summary of Representations. The application contains representations with regard to the pending exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the Plan.

The Plan was established in 1959 pursuant to a collective bargaining agreement between the Houston Chapter of the Associated General Contractors of America, the Construction Employers Association of Texas, and local unions 84 and 135 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL–CIO.

The purpose of the Plan is to provide training for iron worker apprentices and journeymen. In June, 1976, training classes were averaging approximately 375 trainees. Total Plan assets as of March 31, 1975 were $417,278. On August 22, 1975, the Union purchased, from an unrelated party, approximately one acre of unimproved real property adjacent to the Plan's existing training facilities. The purchase price was approximately $24,000. The Union purchased the property to build a new union hall. However, subsequent to the purchase, the plans for the new hall were revised and the property was not large enough to accommodate the new, proposed facilities. The Union offered to sell the property to the Plan.

The Plan's training facilities are to the east side of the property. The south side fronts on a one-third acre piece of land which the Plan recently purchased from the City of Houston for $11,000.

The Plan needs the property which it proposes to purchase from the Union for parking facilities. The Plan currently has 180 parking spaces; however, after completion of its expansion program on the property purchased from the City of Houston, the Plan will need 264 parking spaces. Some of the current 180 parking spaces are located on the property purchased from the City of Houston and will be lost when construction is completed. If needed, all or a portion of the property to be purchased may subsequently be used for building expansion of the training facilities.

The proposed purchase price for the property is $24,859. On July 8, 1976, an appraisal of the property was made by an appraiser who has not prepared real estate appraisals for the Trustees of the Plan or any individual member of the Board of Trustees of the Plan, and has not made any appraisals for the Union, either prior or subsequent to the appraisal of July 8, 1976. In addition, the appraiser has no interest, personal or financial, in either the Plan or the Union, and has no personal or financial association with any individuals involved with either the Plan or the Union. The appraisal estimated the fair market value of the property to be $28,300 as of July 8, 1976.

One of the trustees of the Plan is the business manager of the Union. Neither the Union nor any member of the Union will receive any commission or other form of compensation as a result of the sale.

Notice of pendency of an exemption as published in the FEDERAL REGISTER will be given to the trustees of the Plan, to each of the associations of employers and employee representatives who created the Plan, and to all current participants. This notice will be provided in writing and delivered in person or by first class mail within three (3) business days from the date on which it is published in the FEDERAL REGISTER.

General Information. The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan participants and beneficiaries and in a prudent fashion in accordance with section 404(a) (1) (B) of the Act.

(2) The pending exemption, if granted, will not extend to transactions prohibited under sections 406(b) (1) and (3) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the Plan and its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The pending exemption, if granted, is supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is the subject of an exemption is not dispositive of whether the transaction would have been a prohibited transaction in the absence of such exemption or, though it would have been a prohibited transaction, is exempt by operation of a statutory exemption or a transitional rule.

Pursuant to section 408(a) of the Act, the Department is required to offer an opportunity for a public hearing where a pending exemption relates to section 406(b) of the Act. Any interested person may submit a written request that a hearing be held relating to the pending exemption. Such written request must be received by the Department on or before February 11, 1977 and should state the reason for such person's request for a hearing and the nature of such person's interest in the pending exemption.

All interested persons are also invited to submit written comments on the pending exemption contained herein. In order to receive consideration, such comments must be received by the Department on or before February 11, 1977.

All written comments and all requests for a hearing (preferably six copies) should be addressed to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Exemption Application No. L-341. The application for exemption referred to herein and all such comments relating thereto will be available for public inspection at the Public Documents Room of Pension and Welfare Benefit Programs, Room N-4677, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Pending Exemption. Based upon the application, hereinabove described, the Department has under consideration the granting of the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 whereby the restrictions of sections 406(a) and 406(b) (2) of the Act shall not apply to the purchase by the Plan of one acre of unimproved real property from the Union, pursuant to the terms, conditions and representations set forth in the application.

The pending exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 21st day of December 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc.76-38035 Filed 12-22-76;5:04 pm]

Office of the Secretary

[TA-W-923, 937-939, 1059]

AMERICAN MOTORS CORP.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 76-35175 appearing at page 52558 in the FEDERAL REGISTER of November 30, 1976, two phrases were inadvertently omitted on page 52561. Accordingly, the following corrections should be made:

1. The 2nd column, 4th full paragraph, 3rd line, is corrected by adding the phrase "and luxury small" immediately following the word "intermediate" and

2. The 10th line of the above paragraph is corrected by adding the phrase "workers producing body assemblies for luxury small cars at the Kenosha, Wisconsin plant of American Motors Corporation (TA-W-999)" immediately following the number "999)."

Signed at Washington, D.C., this 13th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37882 Filed 12-27-76;8:45 am]

[TA-W-1081]

BOSS MANUFACTURING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein present the results of TA-W-1081: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 20, 1976 in response to a worker petition filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing work gloves at the Kewanee, Illinois plant of Boss Manufacturing Company, Kewanee, Illinois.

The Notice of Investigation was published in the FEDERAL REGISTER on October 5, 1976 (41 FR 43970). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of Boss Manufacturing Company, its customers, the National Association of Glove Manufacturers, the Work Gloves Manufacturing Association, the U.S. Departments of

Commerce and Labor, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers decreased 39 percent in 1975 compared to 1974. Employment decreased 28 percent in the period of July–December 1975 compared to the like period in 1974. Employment in the period of January-September 1976 increased 28 percent compared to the like period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production decreased 47 percent in 1975 compared to 1974. Production decreased 46 percent in the period of July–December 1975 compared to the like period in 1974. Production in the period of January–June 1976 increased 40 percent compared to the like period in 1975. Production declined 25 percent in the third quarter of 1976 compared to the like period in 1975. No sales data is kept for the Kewanee facility since production is taken to a central warehouse which also receives gloves from other Boss plants.

INCREASED IMPORTS

Imports of work gloves and mittens of all types increased actually in 1972 compared to 1971 and each year thereafter, through 1974, then decreased 18 percent in 1975 compared to 1974. Imports increased 66 percent in the first 6 months of 1976 compared to the like period in 1975. Imports increased relative to domestic production each year from 1972 through 1975 compared to the previous year. The ratio of imports to domestic production increased from 19.2 percent in 1974 to 21.1 percent in 1975, and continued to increase from 18.7 percent in the first six months of 1975 to 26.0 percent in the like period of 1976.

CONTRIBUTED IMPORTANTLY

Company imports of gloves of the all-leather and combination types decreased 34 percent in 1975 compared to 1974, and increased 16 percent during the period of January–September 1976 compared to the same period in 1975. These company imports increased 59 percent in the third quarter of 1976 compared to the like period in 1975. Company imports of fabric work gloves increased 2 percent in 1975 compared to 1974, and increased 37 percent in the period of January–September 1976 compared to the like period in 1975. These imports increased 434 percent in the third quarter of 1976 compared to the like period in 1975.

The Department's investigation revealed that most customers who were surveyed had not switched purchases from Boss Manufacturing Company to import sources. However customers were not able to tell whether their purchases from Boss were foreign made. Some customers had experimented with purchases of imported gloves but had returned to Boss Manufacturing Company. A small percentage of customers continue to buy imports.

While aggregate imports of work gloves and mittens increased 26 percent in the first six months of 1976 compared to the like period in 1975; employment and production at the Kewanee, Illinois plant increased 30 percent and 40 percent, respectively, in the first six months of 1976 compared to the like period in 1975. However, in the third quarter of 1976, although employment at the Kewanee plant increased compared to the like period in 1975, production declined and company imports increased substantially.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with work gloves and mittens produced at the Kewanee, Illinois plant of Boss Manufacturing Company contributed importantly to the total or partial separation, and to the threat of further separations of the workers of the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Kewanee, Illinois plant of Boss Manufacturing Company, Kewanee, Illinois, who became totally or partially separated from employment on or after August 30, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37883 Filed 12-27-76;8:45 am]

[TA-W-1053]

CENTRAL SLIPPER COMPANY, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1053: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 30, 1976 in response to a worker petition received on August 30, 1976 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing ladies' and children's sneakers and slippers at the Wilkes-Barre, Pennsylvania plant of Central Slipper Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on September 10, 1976 (41 FR 38562). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Central Slipper Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, production or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that all the above criteria have been met for the soft-soled footwear production division (slippers) but that the first criterion has not been met for the hard-soled production division (sneakers).

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment is maintained separately between the two production lines for hard-soled footwear (sneakers) and soft-soled footwear (slippers).

Employment of workers engaged in the production of slippers declined 11 percent from 1973 to 1974, declined 33 percent from 1974 to 1975, and declined 50 percent in the first half of 1976 compared to the first half of 1975. All employees engaged in slipper production were separated from January through April, 1976. The employment level of these workers in the second quarter of 1976 was 50 percent lower than the employment average in the second quarter of 1975, and 64 percent lower than in the second quarter of 1974.

Employment of workers engaged in the production of sneakers declined 29 per-

cent from 1973 to 1974, declined 3 percent from 1974 to 1975, and then increased 15 percent in the first half of 1976 compared to the first half of 1975.

Employment of salaried workers declined 7 percent annually from 1973 to 1976.

SALES OR PRODUCTION, OR BOTH, INCREASED ABSOLUTELY

Soft-soled footwear (slippers) comprised one-third of total sales from 1973 to 1975. Sales of slippers declined 12 percent in quantity from 1973 to 1974, and declined 28 percent in quantity from 1974 to 1975. Sales of slippers decreased 53 percent in quantity in the first half of 1976 compared to the first half of 1975.

Hard-soled footwear (sneakers) constituted approximately two-thirds of total sales from 1973 through 1975. Sales of sneakers declined 33 percent in quantity from 1973 to 1974 and declined 5 percent in quantity from 1974 to 1975. Sales of sneakers declined 5 percent in quantity in the first half of 1976 compared to the first half of 1975.

Production data was not maintained separately for sneakers and slippers. Total production declined 28 percent in quantity from 1973 to 1974, declined 13 percent in quantity from 1974 to 1975, and then increased 10 percent in the first half of 1976 compared to the first half of 1975. The company was actually producing for inventory in the second quarter of 1976 in order to keep the plant in operation.

INCREASED IMPORTS

Imports of house slippers increased absolutely and relatively compared to domestic production in each year from 1971 to 1975, and in the first half of 1976 compared to the first half of 1975. The ratio of imports to domestic production increased from 29.5 percent in 1974 to 42.3 percent in 1975, and increased from 43.2 percent in the first half of 1975 to 62.6 percent in the first half of 1976.

Imports of rubber/canvas footwear declined absolutely and relatively compared to domestic production from 1971 to 1972 and then increased absolutely and relatively in each year from 1972 to 1974. Imports declined absolutely and relatively from 1974 to 1975, and declined absolutely in the first half of 1976 compared to the first half of 1975. The ratio of imports to domestic production increased from 18.0 percent in the first half of 1975 to 19.9 percent in the first half of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that retail customers of Central Slipper shifted purchases of slippers from Central Slipper to less expensive imports during the past two years.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with ladies' and children's slippers produced by the soft-soled footwear production division of Central Slipper Co., Inc. Wilkes-Barre, Pennsylvania contributed importantly to the total or partial separation of the workers in that division of the plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of ladies' and children's slippers at Central Slipper Co., Inc. located in Wilkes-Barre, Pennsylvania who became totally or partially separated from employment on or after August 25, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that separations of workers engaged in the production of sneakers in the hard-soled footwear production division of the Wilkes-Barre, Pennsylvania plant of Central Slipper Company, Incorporated have not occurred as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37884 Filed 12-27-76;8:45 am]

[TA-W-1246]

DAVIS BOX TOE COMPANY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1246: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 9, 1976 in response to a worker petition received on November 9, 1976 which was filed on behalf of workers and former workers producing box toes and shoe counters at Davis Box Toe Company, Incorporated, Beacon, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51629). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Davis Box Toe Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Davis Box Toe produces box toes and shoe counters. Box toes and shoe counters are component parts used in the production of most shoes. Their purpose is to help maintain the shape and fit of the shoe. The evidence developed in the Department's investigation revealed that there are no separately identifiable imports of box toes or shoe counters. These products are not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that there are no imports of this item.

Imports of shoes which incorporated counters or box toes of the same origin are not like or directly competitive with shoe counters produced by Davis Box Toe Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with those produced by the Davis Box Toe Company, Incorporated, Beacon, New York are not being imported in increased quantities either actual or relative to domestic production as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37885 Filed 12-27-76;8:45 am]

[TA-W-1034]

GENERAL ELECTRIC CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1034: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 11, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing jet engines and parts at the Evendale, Ohio plant of General Electric Company.

The notice of investigation was published in the FEDERAL REGISTER on Octo-

ber 1, 1976 (41 FR 43493). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of General Electric Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that criteria (3) and (4) have not been met.

Significant Total or Partial Separations

Average employment of hourly workers at the Evendale plant increased 11 percent in 1974 from 1973 and decreased 17 percent in 1975 from 1974. Average employment decreased 7 percent in the first 9 months of 1976 from the first 9 months of 1975.

Average employment of salaried workers at the Evendale plant increased 1 percent in 1974 from 1973, and decreased 7 percent in 1975 from 1974 and 5 percent in the first 9 months of 1976 from the first 9 months of 1975.

Sales, Production, or Both, Have Decreased Absolutely

The Evendale plant produces jet engines and spare parts for two markets—the military market and the commercial airline industry.

Military

Sales equals production since all production is to order. Sales of military jet engines (total sales to the U.S. Government, to foreign governments through the U.S. Government and directly to foreign governments) increased 32 percent in quantity and 28 percent in value in 1974 from 1973 and decreased 21 percent in quantity and 8 percent in value in 1975 from 1974. Sales decreased 12 percent in quantity and increased 4 percent in value in the first 9 months of 1976 from the first 9 months of 1975.

Military sales of spare parts increased 16 percent in value in 1974 from 1973 and decreased 18 percent in 1975 from 1974. Sales increased 22 percent in the first 9 months of 1976 from the first 9 months of 1975.

Commercial

Production of commercial jet engines increased 1 percent in quantity and 9 percent in value in 1974 from 1973 and decreased 52 percent in quantity and 49 percent in value in 1975 from 1974. Production decreased 40 percent in quantity and 21 percent in value in the first 9 months of 1976 from the first 9 months of 1975.

Production of spare parts for commercial engines increased 134 percent in value in 1974 from 1973 and decreased 13 percent in 1975 from 1974. Production decreased 2 percent in the first 9 months of 1976 from the first 9 months of 1975.

Sales of commercial jet engines increased 10 percent in quantity and 19 percent in value in 1974 from 1973 and decreased 45 percent in quantity and 37 percent in value in 1975 from 1974. Sales decreased 10 percent in quantity and increased 11 percent in value in the first 9 months of 1976 from the first 9 months of 1975.

Sales of commercial engine spare parts increased 102 percent in value in 1974 from 1973 and decreased 21 percent in 1975 from 1974. Sales increased 30 percent in the first 9 months of 1976 from the first 9 months of 1975.

Increased Imports

Imports of commercial jet engines for wide-bodied jets into the U.S. increased absolutely and relative to domestic production in 1972, 1973 and 1974 from the previous year. Imports decreased 39 percent absolutely in 1975 from 1974 and decreased relatively from 54.7 percent of domestic production in 1974 to 35.9 percent in 1975. It is estimated that imports have decreased 36 percent absolutely in 1976 from 1975 and decreased relatively from 35.9 percent in 1975 to 32.0 percent in 1976.

Contributed Importantly

The Department's investigation revealed that all military sales from the Evendale plant are to the U.S. Defense Department or to foreign governments. The U.S. Defense Department does not purchase imported jet engines or spare parts. Sales to foreign governments are exports.

Customers of commercial jet engines and spare parts produced at the Evendale plant have not switched to imported engines and spare parts.

Conclusion

After careful review of the facts obtained in the investigation I conclude that imports of articles like or directly competitive with jet engines and parts produced at the Evendale, Ohio plant of General Electric Company have not increased as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D. C. this 13th day of December 1976.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.76-37886 Filed 2-27-76;8:45 am]

[TA-W-1217]

INDUSTRIAL FOOD SERVICE, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1217: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 2, 1976 in response to a worker petition received on that date which was filed on behalf of workers of Industrial Food Service, Incorporated, Pittsburgh, Pennsylvania who provided food services for vending machines.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 51139) on November 19, 1976. No public hearing was requested and none was held. The information upon which the determination was made was obtained principally from officials of Industrial Food Service, Incorporated, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the above criteria is not satisfied, a negative determination must be made.

Industrial Food Service was incorporated in 1944. It provides vending machine services to plants or office buildings seeking such services. The company neither owns any production equipment or facility, nor does it manufacture any products. One of its vending contracts is with Allegheny Ludlum Steel which has no ownership in Industrial Food nor any Industrial Food employees on its payroll.

Industrial Food Service does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in *Pan American World Airways*, Incorporated (TA–W–153, 40 FR 54639). The only question presented in this case is whether Allegheny Ludlum Steel, i.e., a firm which produces an article, namely steel products, and for whom the service is provided, can be considered the "workers' firm". The Department has also previously determined that an independent firm for which such services are provided cannot be considered the "workers' firm". See Notice of Determination in *Nu-Car Driveaway, Inc.* (TA–W–393, 41 FR 12749).

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by Industrial Food Service, Incorporated, Pittsburgh, Pennsylvania are not "articles" within the meaning of section 222(3) of the Trade Act of 1974 and that Allegheny Ludlum Steel cannot be considered the "workers' firm". The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37887 Filed 12-27-76;8:45 am]

[TA–W–1078]

KRASNO BROTHERS GLOVE AND MITTEN COMPANY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1078: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 15, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing leather work gloves at the Krasno Brothers Glove and Mitten Company, Incorporated, Milwaukee, Wisconsin.

The Notice of Investigation was published in the FEDERAL REGISTER on October 1, 1976 (41 FR 43494). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of the Krasno Brothers Glove and Mitten Company, Incorporated, the Work Glove Manufacturers' Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Department's investigation revealed that Kransno Brothers is a specialty shop, designing and producing leather work gloves according to customer specifications. Customer orders are often small volume orders for special purpose work gloves. The leather gloves produced by Krasno Brothers are used for protective purposes in such as the steel and automobile industries.

Both company and union officials at Krasno Brothers stated that since January 1975 there have been no layoffs or reduced hours at the plant. Fluctuations in employment are due to voluntary separations of workers who work part-time at the plant to supplement their Social Security benefits.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that separations of workers at the Krasno Brothers' Glove and Mitten Company, Incorporated, Milwaukee, Wisconsin, have not occurred as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37888 Filed 12-27-76;8:45 am]

[TA–W–1047]

PRINCESS PAT

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1047: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 27, 1976 in response to a worker petition received on August 27, 1976 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' swimwear at the Princess Pat plant, Bridgeport, Connecticut of Peter Pan International, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on September 14, 1976 (41 FR 39115). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Princess Pat/Peter Pan, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, production or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivison are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 39 percent in the first nine months of 1975 compared to the same period in 1974. All employees were terminated when the company closed.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production in terms of quantity declined 3 percent in the first nine months of 1975 compared to the same period in 1974. All production ceased when the company closed.

INCREASED IMPORTS

Imports of women's, misses' and juniors' swim suits declined absolutely and relatively from 1973 to 1974, and

then increased two percent absolutely from 1974 to 1975. The ratio of imports to domestic production increased from 33.2 percent in 1974 to 33.3 percent in 1975.

CONTRIBUTED IMPORTANTLY

Retail customers of Princess Pat/Peter Pan surveyed did not shift purchases from Peter Pan swimwear to imports. Peter Pan swimwear was designed to attract the older, more conservative segment of the market. Retail customers who decreased purchases from Peter Pan from 1974 to 1975 shifted to other domestic brands. These customers placed retail emphasis on the more trendy contemporary styles which Peter Pan did not produce. While small amounts of imported designer swimwear from Israel, Italy, and France are carried by some retail customers, their imports have not increased over the past three years. The imported swimwear purchased by the retail customers is distinguishable from domestic labels in that the imports are in a higher priced "designer label" category, whereas the bulk of domestic labels are in a comparatively moderate price range. Therefore, although retail customers reduced purchases from Peter Pan, they shifted their purchases to other domestic swimwear from 1974 to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' swimwear produced at the Princess Pat plant, Bridgeport, Connecticut of Peter Pan International, New York, New York did not contribute importantly to the total or partial separations of the workers of that plant.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37889 Filed 12-27-76;8:45 am]

[TA-W-1074]

ROCKWELL INTERNATIONAL ADMIRAL GROUP

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1074: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 19, 1976 in response to a worker petition received on September 19, 1976 which was filed on behalf of workers and former workers producing console television and stereo cabinets at the Shelbyville, Indiana plant of Rockwell International, Admiral Group.

The notice of investigation was published in the FEDERAL REGISTER on October 5, 1976 (41 FR 43973). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rockwell International, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criteria (3) and (4) have not been met.

The Shelbyville, Indiana plant of Rockwell produces television and stereo cabinets for use in the production of console televisions and stereos at Rockwell's Harvard, Illinois production facility. The Shelbyville plant's sole customer is Rockwell. Rockwell also purchases cabinets from other domestic manufacturers. The Shelbyville plant is scheduled to close in December 1976.

There are no separately identifiable imports of television and stereo cabinets. The product is not listed as a separated item in the Tariff Schedule of the United States (TSUSA).

A Department survey indicates that the importation of cabinets as a component of console television and stereo sets is assumed to be negligible. The cost of ocean shipping of bulky cabinets designed for console television and stereo sets is greater than any possible labor savings that might result from offshore production. In addition, cabinets produced at the Shelbyville plant were primarily designed for console color televisions of screen sizes greater than 19 inches.

Imports of color television sets are concentrated in the screen sizes 19 inches and smaller. This indicates that portable television sets, which do not require crafted wood cabinets, rather than console television sets, which normally require crafted wood cabinets, are the type of television sets being imported in increased quantities in recent years.

Rockwell indicated that when current contract obligations are fulfilled by the Shelbyville plant, all cabinets needed at Harvard will be purchased solely from other domestic manufacturers of cabinets.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that imports of articles like or directly competitive with television and stereo cabinets produced at the Shelbyville, Indiana plant of Rockwell International, Admiral Group are not being imported in increased quantities as required under Section 222 of the Trade Act of 1974 and did not contribute importantly to total or partial separations of the workers at the Shelbyville plant. Therefore certification of eligibility to apply for adjustment assistance is denied.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37890 Filed 12-27-76;8:45 am]

[TA-W-606T]

ROHR INDUSTRIES, INC.

Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-606T; investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in section 223(d) of the Act.

On April 26, 1976, workers producing aircraft nacelles at the Riverside, California plant of Rohr Industries, Inc. were certified as eligible to apply for trade adjustment assistance. The Notice of Certification was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20963).

The investigation regarding termination was initiated on July 19, 1976, to determine whether the groups of workers specified above continue to meet the group eligibility requirements of section 222 of the Act. The Notice of Investigation was published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31961). No public hearing was requested and none was held.

During the course of the investigation, information was obtained from officials of Rohr Industries, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or

an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria is no longer met, a termination of certification must be issued. Such termination would apply only with respect to total or partial separations occurring after the specified termination date.

Without regard as to whether the other criteria are satisfied, the investigation reveals that the third criterion is no longer being met with respect to workers at the Riverside plant.

INCREASED IMPORTS

On May 30, 1976, Rohr shut down its facility in Tijuana (Parfabco) which manufactured parts and subassemblies for nacelles. At the same time, one of the three plants constituting the Transysco operation was closed. The value of imports from the Mexican operations began to decline in May 1976 and have continued to decline. For the period January–September 1976, the value of these imports declined by 50 percent from the first nine months of 1975.

Company officials have announced the discontinuation of all but one of the Mexican operations, and a complete shutdown is anticipated before the end of 1976. Layoffs of employees in Mexico have commenced and equipment is currently being transferred to Rohr's plants in California. The only Mexican operation that will not be discontinued is work that is unrelated to production at Riverside and that work has been performed in Mexico since the contract's inception.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers producing aircraft nacelles at Rohr's Riverside plant are no longer attributable to the conditions specified in Section 222 of the Trade Act of 1974. In accordance with Section 223(d) of the Act, I hereby revise the certification of April 26, 1976 as follows:

All hourly employees of Department 043 at the Riverside California plant of Rohr Industries, Inc. who became totally or partially separated from employment on or after February 11, 1975 and before December 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All employees separated on or after December 31, 1976 are denied eligibility.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37691 Filed 12-27-76;8:45 am]

[TA-W-26T]

ROHR INDUSTRIES, INC.

Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-26T: investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in section 223(d) of the Trade Act.

On July 18, 1975, workers producing frame weldments for transit cars and detailed sheet metal parts and subassemblies for aircraft nacelles at the Chula Vista, California plant of Rohr Industries, Inc. were certified as eligible to apply for trade adjustment assistance. The Notice of Determination, including a listing of job classifications of affected workers and departments employing such workers, was published in the FEDERAL REGISTER on July 29, 1975 (40 FR 31844). Revisions to that Notice were published in the FEDERAL REGISTER on October 6, 1975 (40 FR 46167), November 26, 1975 (40 FR 54893), and April 30, 1976 (41 FR 18193).

The investigation regarding termination was initiated on July 19, 1976, to determine whether the specified group of workers continues to meet the group eligibility requirements of section 222 of the Act. The Notice of Investigation was published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31961). No public hearing was requested and none was held.

During the course of the investigation, information was obtained from officials of Rohr Industries, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria is no longer met, a termination of certification must be issued. Such termination would apply only with respect to total or partial separations occurring after the specified termination date.

Without regard as to whether the other criteria are satisfied, the investigation reveals that the third criterion is no longer being met with respect to workers at the Chula Vista plant.

INCREASED IMPORTS

Production of transit cars ceased in July 1975 with the final delivery of cars under the Bay Area Rapid Transit (BART) contract. In May 1976, Rohr shut down one of the three plants constituting its facility in Mexicali (Transysco). Transysco manufactured parts and weldments for transit cars as well as aerospace products. On May 30, 1976, Rohr's facility in Tijuana, Parfabco, was shut down. Parfabco had been a manufacturer of parts and subassemblies for nacelles. The value of imports frm Transysco and Parfabco began to decline in May 1976 and have continued to declined. For the period January–September 1976, the value of such imports declined by 50 percent from the first nine months of 1975.

Company officials have announced the discontinuation of all but one of the Mexican operations, and a complete shutdown is anticipated before the end of 1976. Layoffs of employees in Mexico have commenced, and equipment is currently being transferred to Rohr's plants in California. The only Mexican operation that will not be discontinued is work under a contract unrelated to production at Chula Vista, work that has been performed in Mexico since the contract inception.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers producing frame weldments for transit cars and detailed sheet metal parts and subassemblies for aircraft nacelles at Rohr's Chula Vista plant are no longer attributable to the conditions specified in section 222 of the Trade Act of 1974.

In accordance with section 223(d) of the Act, I hereby revise the certification of July 18, 1975 as follows:

All hourly workers of the Chula Vista, California facility of Rohr Industries, Inc. employed in the job classifications and totally or partially separated from employment in the departments as designated in July 18, 1975 certification (TA-W-26), including subsequent revisions, on or after October 3, 1974 and before December 31, 1976 and those salaried workers of the Chula Vista facility who were engaged in employment related to such production in the designated departments and job classifications who became totally or partially separated from employment on or after December 1, 1974 and before December 31, 1976 are certified as eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Those designated workers separated on or after December 31, 1976 are denied eligibility.

That portion of the certification relevant to workers in job classification code 4–5093 (weldor) and 4–5094 (weldor) in Department 064 of the Chula Vista facility laid off on or after October 31, 1974 and before June 30, 1975 is not revised.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76–37892 Filed 12–27–76;8:45 am]

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

DRAFT REPORT REVIEW

Meeting

DECEMBER 14, 1976.

Pursuant to section 10 of the Federal Advisory Committee Act of 1972 notice is hereby given that the National Advisory Council on Economic Opportunity will hold a one day (possibly two day) meeting on February 8 (and possibly February 9) at the Council office at 1725 K Street, NW (Room 405), Washington, D.C. The meeting will begin at 9:30 a.m. and is open to the public.

The purpose of the meeting will be to review a draft report of the Council.

The National Advisory Council on Economic Opportunity is authorized by section 605 of the Community Services Act to advise the President and the Director of the Community Services Administration on policy matters arising under the administration of the Act and to review the effectiveness and operations of programs under the Act.

Records shall be kept of all proceedings and shall be available for public inspection at the offices of the National Advisory Council on Economic Opportunity.

WALTER B. QUETSCH,
Executive Director.

[FR Doc.76–37894 Filed 12–27–76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (76–116)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL COMMITTEE ON AERONAUTICAL PROPULSION

Meeting

The NASA Research and Technology Advisory Council Committee on Aeronautical Propulsion will meet on January 19–21, 1977, at the NASA Dryden Flight Research Center, Edwards, California 93523. The meeting will be held in Conference Room 2000 of Building 4800. Members of the public will be admitted on a first-come, first-served basis, up to the seating capacity of the room, which is about 5 persons. All visitors must report to the Dryden Flight Research Center Receptionist in Building 4800.

The NASA Research and Technology Advisory Council Committee on Aeronautical Propulsion was established to advise NASA's senior management in the areas of aeronautical propulsion research and technology. The Committee studies issues, pinpoints critical problems, determines gaps in needed technology, points out desirable goals and objectives, summarizes the state of the art, assesses ongoing work, and makes recommendations to help NASA plan and carry out an aeronautical propulsion program of greatest benefit to the nation.

There are 13 members on the Aeronautical Propulsion Committee. The current Chairman is Mr. Morris A. Zipkin.

The following list sets forth the approved agenda and schedule for the meeting. For further information, please contact Mr. Harry W. Johnson, NASA Headquarters, Washington, D.C., Area Code 202, 755–3003.

JANUARY 19, 1977

Time	*Topic*
8 a.m.	Introductory remarks by center director, committee chairman, and executive secretary. (Purpose: To review agenda; note actions of last research and technology advisory council meeting and NASA response to recommendations; summarize NASA organizational, programmatic and budgetary status pertinent to committee interests.)
9 a.m.	Research center program highlight reports. (Purpose: To review recent accomplishments and status of aeronautical propulsion and related programs conducted at the Lewis, Langley, Ames and Dryden Research Centers, and the Jet Propulsion Laboratory.)
1 p.m.	Tour of Dryden Flight Research Center (DFRC). (Purpose: To acquaint committee members with NASA aeronautical flight test hardware and test facilities at DFRC.)
2:30 p.m.	Alternative hydrocarbon fuels research. (Purpose: To report the activities of the ad hoc Panel on jet engine hydrocarbon fuels, review NASA fuels research status and plans, and develop committee discussion of fuels problems and issues.)
4 p.m.	Propulsion system integration. (Purpose: To review activities and plans for integrated airframe/engine/controls research and technology, including 2D nozzles and F–15 aircraft experiments.)

JANUARY 20, 1977

Time	*Topic*
8 a.m.	Small aircraft engine technology review. (Purpose: To review NASA's research and technology programs and plans pertaining to military and civil small aircraft engines including gas turbine and intermittent combustion engines.)
10 a.m.	Coannular nozzle noise reduction and variable cycle engines. (Purpose: To review status and plans for coannular nozzle noise suppression research and to discuss implications on variable cycle engine concepts for advanced supersonic cruise aircraft.)
1 p.m.	Tour of Air Force Flight Test Center. (Purpose: To acquaint committee members with aeronautical test facilities and flight hardware used in Air Force flight test programs with which NASA is concerned.)
3 p.m.	Technology transfer processes. (Purpose: To review the impact and value of in-house aeronautical propulsion research and technology conducted by the Government as compared to contract research with reference to maximizing the transfer of technology within the United States.)

JANUARY 21, 1977

Time	*Topic*
8 a.m.	Committee discussions and recommendations. (Purpose: To discuss major program elements and issues presented during the meeting, summarize committee views, prepare recommendations for presentation to the NASA research and technology advisory council, and to plan committee future activities and next meeting.)
12 m.	Adjournment.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

DECEMBER 17, 1976.

[FR Doc.76–37822 Filed 12–22–76;8:45 am]

[Notice (76–115)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL PANEL ON RESEARCH

Meeting

The NASA Research and Technology Advisory Council Panel on Research will meet on January 27 and 28, 1977, at the NASA Ames Research Center, Moffett Field, California 94035. The meeting will be held in the Committee Room, Building N–200. The purpose of this meeting is to gain firsthand knowledge of the research work and the management of university sponsored research at Ames Research Center. The OAST Research Council will meet concurrently with the Panel on Research. Members of the public will be admitted on a first-come, first-served basis, limited by the seating capacity of the meeting room which holds 50 persons. All visitors must sign in prior to attending the meeting.

The Panel on Research of the NASA Research and Technology Advisory Council serves in an advisory capacity only. There are 12 members on the Panel. The chairman is Professor A. Hertzberg. The following list sets forth the approved agenda and schedule for the meeting of this Panel on Research on January 27 and 28, 1977. For additional information, please contact Mr. F. C. Schwenk, Area Code 202, 755-2488, at NASA Headquarters, Washington, D.C., or Dr. L. P. Zill, Area Code 415, 965-5759, at the Ames Research Center, Moffett Field, CA.

JANUARY 27, 1977

Time	*Topic*
8 a.m.	Introduction (Purpose: Welcome by Ames Officials and remarks by the Chairman on the conduct of the review.)
8:15 a.m.	Review of (1) aerodynamics, (2) fluid mechanics, and (3) environmental science. (Purpose: Review of the in-house and university sponsored research in the areas listed.
1 p.m.	Review of (1) physics and chemistry, (2) atmospheric and space science, (3) materials, and (4) applied mathematics and computer science. (Purpose: Review of the in-house and university sponsored research in the areas listed.)
4:15 p.m.	Panel discussion (Purpose: To discuss and evaluate the presentations.)

JANUARY 28, 1977

8:30 a.m.	Program overview (Purpose: To discuss informally with division directors and branch chiefs the present programs, possible new directions and problem areas.)
1 p.m.	Executive session (Purpose: To discuss overall review and to make recommendations.)
3 p.m.	Meeting with center director (Purpose: To inform Center Director of the findings and recommendations.)
4:30 p.m.	Adjournment.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

DECEMBER 17, 1976.

[FR Doc.76-37821 Filed 12-27-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

ADVISORY COMMITTEE PUBLIC PROGRAMS PANEL

Meeting

December 20, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Public Programs Panel will meet at the Shoreham Building, 806 15th Street, NW, Washington, D.C. 20506, commencing at 10 a.m., Wednesday, January 6, 1977.

The purpose of the meeting is to review Humanities Museums and Historical Organizations grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW, Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-37804 Filed 12-27-76;8:45 am]

ARTISTS-IN-SCHOOLS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Artists in Schools Advisory Panel to the National Council on the Arts will be held on January 12-13, 1977, from 9:30 a.m. to 9 p.m. on January 12 and from 9:30 a.m. to 3 p.m. on January 13, in Room 1425, Columbia Plaza Building, 2401 E Street, NW, Washington, D.C.

A portion of this meeting will be open to the public on January 12 from 9:30 a.m. to 5 p.m., and on January 13 from 9:30 a.m. to 3 p.m., on a space available basis. Accommodations are limited. The agenda will include discussions of Program and administrative policy and Program Guidelines.

The remaining sessions of this meeting, on January 12 from 5 p.m. to 9 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-37855 Filed 12-27-76;8:45 am]

FEDERAL STATE PARTNERSHIP ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal State Partnership Advisory Panel to the National Council on the Arts will be held on January 11-12, 1977, from 9 a.m. to 5 p.m., in the Music Center of Los Angeles County, 135 North Grand Avenue, Los Angeles, California.

A portion of this meeting will be open to the public on January 11, from 9 a.m. to 5 p.m., on a space available basis. The agenda will include discussion of major policy issues facing the panel.

The remaining sessions of this meeting on January 12, from 9 a.m. to 5 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552 (b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-37856 Filed 12-27-76;8:45 am]

PUBLIC MEDIA ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Public Media Advisory Panel to the National Council on the Arts will be held on January 10-11, 1977, from 9 a.m. to 5 p.m., in Room 1425, Columbia Plaza Building, 2401 E Street, NW, Washington, D.C.

A portion of this meeting will be open to the public on January 10, from 10 a.m. to 5 p.m., on a space available basis. Accommodations are limited. The agenda will include reviews of the American Film Institute programs and draft guidelines.

The remaining sessions of this meeting on January 10 from 9 a.m. to 10 a.m., and January 11, from 9 a.m. to 5 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552 (b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee, Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-37954 Filed 12-27-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR MATHEMATICAL SCIENCES-AD HOC GROUP ON MATHEMATICAL LOGIC

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Group on Mathematical Logic-Advisory Panel for Mathematical Sciences (NSF).

Date and time: January 26, 1977—9:00 a.m.-5:00 p.m.

Place: Embassy Room in the Chase-Park, St. Louis, Missouri.

Type of meeting: Closed.

Contact person: Dr. Ralph M. Krause, Program Director, Topology and Foundations Program, Rm. 304, National Science Foundation, Washington, D.C. Telephone (202) 632-7377.

Purpose of panel: To provide advice and recommendations relative to the support of research in the mathematical sciences.

Agenda: The panel will be reviewing and evaluating research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

DECEMBER 22, 1976.

[FR Doc.76-38084 Filed 12-27-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 22, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

United Energy Resources, Inc.; Common Stock, $1.00 par value; File No. 7-4899.

Upon receipt of a request, on or before January 7, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-38052 Filed 12-27-76;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 10(a), that the National Market Advisory Board will conduct open meetings on January 17 and 18, 1977 in Room 776, 500 North Capitol Street, Washington, D.C. Initial notice of this meeting was published in the FEDERAL REGISTER on November 24, 1976 (41 FR 51890).

The Board will also conduct open meetings on February 14 and 15, 1977 in Los Angeles, California. The summarized agenda and exact location for these meetings will be published in the FEDERAL REGISTER at a later date.

The summarized agenda for the January meeting is as follows:

1. Discussion of the Board's report to the Congress pursuant to Section 11A(d)(3)(B) of the Securities Exchange Act of 1934;

2. Discussion of the Board's report to the Securities and Exchange Commission regarding the establishment of a composite limit order book;

3. Discussion of the Board's report to the Securities and Exchange Commission regarding off-board principal transactions in listed securities by exchange members;

4. Discussion of the submission of Institutional Networks Corporation; and

5. Discussion of such other matters as may properly be brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D. C. 20549.

GEORGE A. FITZSIMMONS,
Secretary

DECEMBER 21, 1976.

[FR Doc.76-38051 Filed 12-27-76;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 22, 1976.

In the matter of an application of Midwest Stock Exchange, Inc. for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Corning Glass Works; Common Stock, $5.00 par value; File No. 7-4889.

Upon receipt of a request, on or before January 7, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may

submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76-38053 Filed 12-27-76;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 21, 1976.

In the matter of an application of Midwest Stock Exchange, Inc. for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Pioneer Electronic Corp.; American Depository Receipt Shares each represents 2 shares of common stock—50 yen par value; File No. 7-4897.

Upon receipt of a request, on or before January 6, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76-38054 Filed 12-27-76;8:45 am]

[File No. 500-1]

ROBINO-LADD CO.

Suspension of Trading

DECEMBER 20, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Robino-Ladd Company being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 11:15 a.m. (EST) on December 20, 1976 through December 26, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-38055 Filed 12-27-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

CIVIL RESERVE AIR FLEET ADVISORY COMMITTEE

Notice of Reestablishment

Notice is hereby given that the Civil Reserve Air Fleet (CRAF) Advisory Committee is being reestablished. The Office of Emergency Transportation, Office of the Secretary, is the sponsor of the committee which reports to the Secretary through the Assistant Secretary for Administration.

The committee consists of representatives of the individual civil air carriers actively participating in the CRAF program at the time a committee meeting is called; members of the civil air carrier industry who have expressed an interest in the CRAF program; representatives of the Office of the Secretary of Defense, the Department of the Air Force, the Military Airlift Command, the Department of Transportation's Federal Aviation Administration, the General Services Administration's Federal Preparedness Agency, and the Civil Aeronautics Board.

The committee advises and makes recommendations to the Secretary of Transportation concerning problems related to participation by civil air carriers in the CRAF program and the allocation of some of their aircraft to the CRAF. Further, it provides a forum for members of the civil air carrier industry participating in the CRAF program and concerned members of the Department of Transportation and the Federal transportation community to discuss problems of mutual interest and to insure a clear understanding of the policies and practices used by the Department in the allocation of aircraft to the CRAF program.

The Secretary of Transportation has determined that the formation and use of the Civil Reserve Air Fleet Advisory Committee are necessary in the public interest in connection with the performance of duties imposed on the Department of Transportation by executive order and law.

Issued in Washington, D.C., on December 20, 1976.

CLARENCE G. COLLINS, Jr.,
Acting Director,
Office of Emergency Transportation.

[FR Doc.76-38094 Filed 12-27-76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Department Order No. 202 (Rec.2)]

OFFICE OF THE ASSISTANT SECRETARY (INTERNATIONAL AFFAIRS)

Organization and Responsibilities

By virtue of the authority vested in the Secretary of the Treasury, including the authority vested in me by Reorganization Plan No. 26 of 1950, it is ordered that:

1. The Assistant Secretary (International Affairs) is the principal advisor to the Secretary of the Treasury and the Under Secretary (Monetary Affairs) in exercising policy direction and control over Treasury Department positions in areas dealing with international financial, economic, monetary, trade, and commercial matters, as well as energy policies and programs.

2. Within the Office of the Assistant Secretary (International Affairs) (OASIA), there are five Deputy Assistant Secretaries: Trade and Raw Materials Policy, Investment and Energy Policy, International Monetary Affairs, Developing Nations, and Research and Planning. The functions and responsibilities of the Deputy Assistant Secretaries are defined by the Assistant Secretary and the Deputy Assistant Secretaries serve under the policy guidance of the Assistant Secretary. Each Deputy Assistant Secretary supervises a number of offices managed by Directors. The functions and responsibilities of the Deputy Assistant Secretaries shall include, but not be limited to, the following:

a. *Deputy Assistant Secretary (Trade and Raw Materials Policy).* The Office serves as the principal policy advisor to the Assistant Secretary in the areas of trade policy, trade with nonmarket economy countries, raw materials, and oceans policy.

(1) The Office formulates and implements Treasury Department positions on: (a) U.S. trade and commercial policy on general; (b) multilateral and bilateral trade negotiations; (c) trade finance matters; (d) U.S. economic relationships with the U.S.S.R., Eastern Europe, China, and such other nonmarket economy countries as may be designated, including support for operations of the East-West Foreign Trade Board and its Working Group; and (e) programs in relation to the Secretary's responsibilities for trade relations with other countries.

(2) The Office also formulates and implements Treasury Department positions on: (a) questions relating to basic natural resources, particularly non-fuel minerals and agricultural commodities; (b) U.S. commodity policy; and (c) oceans policy matters, including "Law of the Sea" negotiations.

b. *Deputy Assistant Secretary (Investment and Energy Policy)*. (1) The Office serves as the principal policy advisor to the Assistant Secretary in formulating and implementing Treasury Department positions on: (a) international investment policy, including foreign investment in the United States; (b) international banking policy; (c) domestic and international energy policy, with special emphasis on the economic aspects of such policy; and (d) domestic and international energy finance matters.

(2) In carrying out these responsibilities, the Office: (a) supports the Secretary of the Treasury in his role as a member of the Energy Resources Council; (b) serves as Secretariat for the interagency Committee on Foreign Investment in the United States established by Executive Order No. 11858; and (c) develops and implements Treasury Department policy with respect to issues arising in the International Energy Agency, and the Organization for Economic Cooperation and Development (OECD) Committees on Financial Markets and on Investment and Multinational Enterprises.

c. *Deputy Assistant Secretary (International Monetary Affairs)*. (1) The Office serves as the principal policy advisor to the Assistant Secretary in formulating and implementing Treasury Department policies concerned with the maintenance and operation of a smoothly functioning international monetary system, and the development and conduct of U.S. financial relations with the market economy industrial nations. In carrying out this function the Office provides support for U.S. participation in multilateral financial institutions, principally the International Monetary Fund and the OECD, as well as in other fora related to the operations of the international financial system.

(2) The Office provides analyses and forecants of economic developments in and policies of the major industrial nations, both domestic and external. The Office maintains Treasury Department representatives in key industrial countries and in the OECD to facilitate communication on issues of both bilateral and multilateral concern. It also analyzes regional and global payments patterns and their implications for the workings of the monetary system.

(3) With guidance furnished by senior Treasury Department officials, the Office also: (a) formulates and implements policy relating to exchange market operations; (b) develops policy on the use and management of the assets of the Exchange Stabilization Fund (ESF); (c) provides direction to the Federal Reserve Bank of New York with respect to ESF exchange market operations; and (d) maintains continuing oversight of gold markets, production, consumption, and foreign trade.

d. *Deputy Assistant Secretary (Developing Nations)*. (1) The Office serves as the principal policy advisor to the Assistant Secretary in formulating and implementing Treasury Department positions on U.S. economic policies and programs with respect to the developing nations. The Office helps formulate, review, and oversee U.S. economic and financial policies with respect to individual developing countries, as well as U.S. policies with respect to the developing countries in general, including debt, development, expropriation, and food policies. In support of these activities, the Office maintains Treasury Department representatives in a number of key developing nations. The Office also has responsibility for providing support to the Secretary of the Treasury in his capacity as a member of the joint economic commissions which have been established with individual developing countries.

(2) The Office formulates, reviews, and oversees Treasury Department positions on policies, operations, and activities of the international lending institutions and the activities of the International Monetary Fund related to developing nations. The Office maintains liaison with and reviews policies of international, United States, and interagency development finance and policy formulating bodies, such as the Development Assistance Committee of the OECD, the United Nations Conference on Trade and Development, the Overseas Private Investment Corporation, and the Development Loan Staff Committee. The Office administers the Secretariat of the National Advisory Council on International Monetary and Financial Policies (NAC). The NAC operates under the authority of Executive Order No. 11269.

e. *Deputy Assistant Secretary (Research and Planning)*. (1) The Office serves as the principal research advisor to the Assistant Secretary and other OASIA officials and provides policy guidance on the entire range of international economic issues with which OASIA is concerned.

(2) The Office is responsible within the Department for: (a) U.S. balance of payments analysis and forecasting; (b) administration of the Treasury Department's foreign exchange reporting system; (c) maintaining data reporting systems on foreign currency positions of U.S. banking and commercial institutions, and foreign official indebtedness to entities of the U.S. Government; and (d) providing computer-based services to fulfill the needs of OASIA.

(3) The Office provides in-depth analysis and policy planning guidance on subjects such as: (a) the working of the international monetary mechanism, including quantitative studies of the causes of balance of payments disturbances and of how policies pursued by the U.S. Government and foreign governments affect the process of adjustment to such disturbances; (b) the economic consequences on the U.S. and international economies of changes of monetary and fiscal policy by the U.S. Government and foreign governments; (c) the economic consequences of changes in the trade and raw materials policies of the U.S. Government; and (d) current and prospective developments in the U.S. balance of payments. These research projects are coordinated with other U.S. Government departments and agencies and international institutions under the guidance of the Assistant Secretary.

3. Within the Office of the Assistant Secretary (International Affairs), there also are the Office of the Deputy to the Assistant Secretary (Saudi Arabian Affairs), the Deputy to the Assistant Secretary and Secretary of the International Monetary Group, the Office of the Inspector General, the Administrative and Personnel Staff, and the OASIA Secretariat. The functions and responsibilities of these offices, which are defined by the Assistant Secretary, are:

a. *The Office of the Deputy to the Assistant Secretary (Saudi Arabian Affairs)* is composed of an Office of Saudi Arabian Affairs in Washington and an Office of the U.S. Representation to the Joint Commission in Riyadh, Saudi Arabia, and serves as the principal policy advisor to the Assistant Secretary in formulating and implementing the projects and programs undertaken by the U.S - Saudi Arabian Joint Commission on Economic Cooperation established on June 8, 1974, and chaired by the Secretary of the Treasury. The Office is also responsible for the development of Treasury Department policy with respect to U.S. economic relations with Saudi Arabia.

b. *The Deputy to the Assistant Secretary and Secretary of the International Monetary Group* serves as a policy advisor to the Assistant Secretary in the formulation and implementation of policies relating to the international monetary system.

c. *The Office of the Inspector General* provides the Assistant Secretary and other senior level Treasury Department officials with a reliable and independent internal appraisal of selected international financial activities and programs for which OASIA has primary operational responsibility. The Inspector General also performs such reviews as requested. Major areas of concern include the efficiency and economy of the use of U.S. investments in the International Monetary Fund, the International Bank for Reconstruction and Development, and regional multilateral banks, as well as procedures governing the use of the ESF.

d. *The Administrative and Personnel Staff and OASIA Secretariat* perform personnel, administrative and other support operations for the Assistant Secretary.

4. With the exception of the Office of the Inspector General, the Assistant Secretary may reassign programs, functions, and associated positions and resources among the subordinate offices established

above as deemed necessary, consistent with the policies and procedures governing the ESF.

5. This Order supersedes Treasury Order No. 202 (Rev. 1), March 26, 1973; Treasury Order No. 202–1, October 14, 1964; Treasury Order No. 203, October 14, 1964; Treasury Order No. 232, June 23, 1974; Treasury Order No. 202–2, July 25, 1975; and Treasury Order No. 241, February 1, 1976. This Order does not affect Treasury Order No. 237, April 7, 1975; Treasury Order No. 220, April 23, 1971; or Treasury Order 190 (Rev. 12), September 14, 1976.

Dated: December 20 ,1976.

WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.76–37951 Filed 12–27–76;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 27, 1977, at 9:30 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building—U.S. Courthouse, Room A–220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Falls Business College, 620 Gallatin Road, South, Madison, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: DECEMBER 20, 1976.

R. S. BIELAK,
Director, VA Regional Office.

[FR Doc.76–38009 Filed 12–27–76;8:45 am]

INTERSTATE COMMERCE COMMISSION

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of protests to the granting of the authority must be filed with the Commission on or before January 27, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 119642 (Sub-No. 4) (republication) filed April 26, 1976, published in the FEDERAL REGISTER issue of June 17, 1976, republished as amended in the FEDERAL REGISTER issue of July 29, 1976, and republished this issue. Applicant: JANESVILLE AUTO TRANSPORT COMPANY, a corporation, 1263 South Cherry Street, P.O. Box 959, Janesville, Wis. 53545. Applicant's representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. The Initial Decision by the Administrative Law Judge, served November 23, 1976, finds that the issuance of a *contract carrier* Permit to applicant is consistent with the public interest and the national transportation policy authorizing operations over irregular routes in the transportation of (1) *Automobiles, trucks, chassis, and buses,* in initial movements, in truckaway and driveaway service, from Janesville, Wis., to points in Illinois, Indiana, Iowa, the Upper Peninsula of Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; (2) *tractors* (except farm tractors and crawler or track type tractors), in initial movements, in truckaway and driveaway service, from Janesville, Wis., to points in Montana, Nebraska, North Dakota and South Dakota; (3) *automobiles, trucks, tractors* (except farm tractors and crawler or track type tractors), chassis, and buses, in secondary movements, in truckaway and driveaway service, between points in Illinois, Indiana, Iowa, and the Upper Peninsula of Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota and Wisconsin; (4) *unfinished automobiles, trucks and chassis,* in initial movements, in truckaway and driveaway service, from Janesville, Wis., to points in the Upper Peninsula of Michigan, Minnesota, Missouri, and Wisconsin; (5) *unfinished automobiles, trucks, and chassis,* in secondary movements, in truckaway and driveaway service, between points in Illinois, Indiana, Iowa, the Upper Peninsula of Michigan, Minnesota, Missouri and Wisconsin; (6) *automobile parts,* from Janesville, Wis., to points in Illinois, Indiana, and Iowa.

(7) *Vehicle bodies, automobile parts* when accompanying vehicles with which to be used, and *automobile show paraphernalia and displays* (except display vehicles), between points in Illinois, Indiana, Iowa, the Upper Peninsula of Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wisconsin; (8) *automobiles, trucks, chassis, buses, and tractors* (except farm tractors and crawler or track type tractors), in initial movements, in truckaway and driveaway service, from Janesville, Wis., to points in Colorado, Idaho, Kansas, Wyoming and the Lower Peninsula of Michigan; (9) *automobiles, trucks, tractors* (except farm tractors and crawler or track type tractors), *chassis and buses,* in secondary movements, in truckaway and driveaway service, and *vehicle bodies, automobile parts* when accompanying vehicles with which to be used, and *automobile show paraphernalia and displays,* (a) between points in Colorado, Idaho, Kansas, Wyoming, and the Lower Peninsula of Michigan; and (b) between points in Colorado, Idaho, Kansas, Wyoming, and the Lower Peninsula of Michigan, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wisconsin and the Upper Peninsula of Michigan; (10) *automobiles, trucks, and buses* as described in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in initial movements, in truckaway service, (a) from the plantsites of General Motors Corporation, located at Jackson County, Mo., to points in Minnesota, Wisconsin, Illinois, Iowa, and the Upper Peninsula of Michigan, restricted to the transportation of traffic moving through Janesville, Wis.; and (b) from the plantsites of the General Motors Corporation, Jackson County, Mo., to Janesville, Wis.; (11) *automobiles, trucks, and buses,* as described in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in initial movements, in truckaway service, (a) from Pontiac, Mich., to points in Iowa, Minnesota and Wisconsin, restricted to the transportation of traffic moving through Janesville, Wis.; and (b) from Pontiac, Mich., to Janesville, Wis., restricted against the transportation of traffic from the plantsite of the GMC Truck & Coach Division of General Motors Corporation, located in Pontiac, Mich.; (12) (a) *automobiles, trucks, chassis, and buses,* in initial movements, in truckaway and driveaway service, from Janesville, Wis., to points in Kentucky and Tennessee; and (b) *returned shipments* of such commodities, from points in Kentucky and Tennessee, to Janesville, Wis.

(13) *Automobiles, trucks and buses,* as described in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in initial movements, in truckaway service, (a) from the plantsite of the General Motors Corporation, located at Janesville, Wis., to points in Connecticut, Delaware, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; and (b) from the plantsite of the General Motors Corporation, located at Lordstown, Ohio, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, and Wisconsin; and (14) *automobiles, trucks and buses,* as described in the report of *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in initial movements, in truckaway service, from (a) Norwood, Ohio, to points in Illinois and Wisconsin; and (b) Willow Run, Mich., to points in Illinois, Iowa, Wisconsin, and Minnesota, restricted to the transportation of traffic originating at or destined to a plant, warehouse, or

other facilities of General Motors Corporation, restricted to a transportation service in all of the above, to be performed under a continuing contract, or contracts, with General Motors Corporation: that applicant is fit, willing, and able properly to perform such service and to conform to the provisions of the Interstate Commerce Act and the rules and regulations thereunder.

This republication is deemed necessary because of publishing inconsistencies relative to the St. Louis-East St. Louis Commercial Zone and the belated reference in this proceeding to applicant's Sub-No. 9, authorized in a certificate issued July 22, 1976. This application is directly related to a Section 5(2) finance proceeding in No. MC-F-12809, published in the FEDERAL REGISTER issue of April 22, 1976. The proposed authority is a conversion of existing common carrier certificates in MC 134779 and subs thereunder; concurrently with the issuance of a permit in this proceeding, all certificates held by applicant under MC 134779 and (Sub-Nos. 1, 6, 7, 9, and 10) will be cancelled.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37909 Filed 12-27-76;8:45 am]

[Notice No. 221]

ASSIGNMENT OF HEARINGS

DECEMBER 22, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139999 (Sub 12), Redfeather Fast Freight, Inc. now being assigned February 14, 1977 (2 days) at Kansas City, Missouri in a hearing room to be later designated.

MC 119988 (Sub-No. 98), Great Western Trucking Co., Inc., now being assigned January 24, 1977 (2 days) at Dallas, Texas, in a hearing room to be later designated.

MC 139495 (Sub-No. 163), National Carriers, Inc., now being assigned January 26, 1977 (3 days) at Dallas, Texas, in a hearing room to be later designated.

MC 108158 (Sub 58), Mid-Continent Freight Lines, Inc, now being assigned March 1, 1977 (9 days) at St. Paul, Minnesota in a hearing room to be later designated.

MC 110191 Sub 28, Turner's Express, Inc., now being assigned February 2, 1977, (3 days), at Richmond, Va., in a hearing room to be later designated.

MC 114211 (Sub Nos. 262 and 290), Warren Transport, Inc. now being assigned March 7, 1977 (1 week) for continued hearing at San Francisco, California and will be held in Room 510, 5th Floor, 211 Main Street.

AB 3 (Sub-No. 9), Missouri Pacific Railroad Company Abandonment Between Dearing & Dexter in Montgomery, Chautauqua, and Cowley Counties, Kansas, now assigned January 26, 1977, at Independence, Kans. is postponed to February 7, 1977 (3 days), at Independence, Kans.; in a hearing room to be later designated.

MC 113855 (Sub-No. 351), International Transport, Inc., now assigned February 8, 1977, at Chicago, Ill. will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 140829 (Sub-No. 11), Cargo Contract Carrier Corp., now assigned February 10, 1977, at Chicago, Ill. will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 58923 (Sub-No. 33) and MC 58923 (Sub-No. 42), Georgia Highway Express, Inc., has been continued to January 26, 1977 (2½ days) at Atlanta, Georgia; in Room 305 1252 West Peachtree Street, N.W.

MC 113495 (Sub 78), Gregory Heavy Haulers, Inc. now being assigned March 2, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 51146 (Sub-No. 463), Schneider Transport, Inc., MC 51146 (Sub-No. 470), Schneider Transport, Inc., MC 133655 (Sub-No. 87), Trans-National Truck, Inc., and MC 133655 (Sub-No. 93), Trans-National Truck, Inc., now assigned February 14, 1977, at Chicago, Ill. will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 75406 (Sub 40), Superior Forwarding Co., Inc. now being assigned January 5, 1977 (2 days) at Memphis, Tennessee for continued hearing and will be held in Room 1006, Tax Court, Federal Building, 167 North Main Street.

MC 135639 (Sub-No. 5), Queensway, Inc., now assigned January 17, 1977, at New York, N.Y. will be held at the Court of Claims, Room 238, Court Room A, 26 Federal Plaza.

MC 117940 (Sub-No. 179), Nationwide Carriers, Inc., now assigned January 18, 1977, at New York, N.Y. will be held at the Court of Claims, Room 238, Court Room A, 26 Federal Plaza.

MC 140033 (Sub-No. 16), Cox Refrigerated Express, Inc., now assigned January 19, 1977, at New York, N.Y. will be held at the Court of Claims, Room 238, Court Room A, 26 Federal Plaza.

MC 103066 (Sub-No. 38), Stone Trucking Company, now assigned January 20, 1977, at New York, N.Y. will be held at the Court of Claims, Room 238, Court Room A, 26 Federal Plaza.

MC 110563 (Sub 186), Coldway Food Express, Inc. now being assigned March 3, 1977 at the Offices of the Interstate Commerce Commission Washington, D.C.

MC 142362, Hogan Trucking Co., Inc. now being assigned March 9, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 135797 (Sub 60), J.B. Hunt Transport, Inc. now being assigned March 2, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 128224 (Sub 2), George F. Johnson now being assigned March 3, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 123744 (Sub 25), Butler Trucking Co. now being assigned March 10, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38078 Filed 12-27-76;8:45 am]

[Notice No. 06]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 28, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 17, 1977. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76284. By order of December 3, 1976 the Motor Carrier Board approved the transfer to Nippon Express, U.S.A., Inc., New York, N.Y., of Certificate No. MC 73828, issued December 12, 1972, to D & R Moving & Trucking, Inc., Oceanside, N.Y., authorizing the transportation of: household goods, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia and the District of Columbia. Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368, Attorney for Applicants.

No. MC-CF-76287. By order of December 3, 1976 the Motor Carrier Board approved the transfer to D & R Moving & Trucking, Inc., Oceanside, New York, of Certificate No. MC 139558 issued July 17, 1975, to Raymond Storage Warehouse, Inc., Bronx, N.Y. authorizing the transportation of: household goods, between New York, N.Y., and points in Westchester and Nassau Counties, N.Y., and Fairfield County, Conn., on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Massachusetts, Maryland, New Hampshire, New Jersey (except points in Essex, Union and Hudson Counties), New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia. Ronald I. Shapss, 450 Seventh Avenue, N.Y., N.Y. 10001 Attorney for Transferor and Arthur Piken; 1 Lefrak City Plaza, Flushing, N.Y., Attorney for Transferee.

No. MC-FC-76632, by order entered December 6, 1976 the Commission, Motor Carrier, approved the transfer to Albert Ring, Andrew Ring, Bernard Ring, and Ronald Ring, doing business as Frank Ring, Neola Iowa the operating rights set forth in Certificates Nos. 42194 and

sub numbers 1 and 2, issued April 13, 1967, November 18, 1971, and December 17, 1973 respectively to Leonard L. Madsen doing business as Kroeger Transfer, Minden, Iowa, authorizing the transportation of: *General commodities,* except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (other than those requiring refrigeration), and those injurious or contaminating to other lading, between Minden, Iowa, and Omaha, Nebr., serving the intermediate points of Neola, Underwood, and Weston, Iowa: From Minden over Iowa Highway 83 (formerly portion Iowa Highway 64) to junction Iowa Highway 64, thence over Iowa Highway 64 to Council Bluffs, Iowa, thence across the Missouri River to Omaha, and return over the same route. *Household goods* as defined by the Commission, over irregular routes, from Neola, Iowa, and points within 15 miles thereof, to Omaha, Nebr.; and *Feed, tankage, livestock, farm implements, building materials,* and *household goods* as defined by the Commission from Omaha, Nebr., to Neola, Iowa, and points within 15 miles thereof; and *livestock, grain, hay, feed, agricultural implements, lumber, concrete blocks,* and *petroleum products* in containers, over irregular routes, between Harlan, Iowa, and points within 25 miles of Harlan, on the one hand, and, on the other, Omaha, Nebr. Donald Stern, 530 Univac Bldg., 7100 West Center Rd., Omaha, Neb. 68106, Attorney for applicants.

No. MC–FC–76830. By order entered December 20, 1976 the Motor Carrier Board approved the transfer to Holiday Travel, Inc., Eau Claire, Wisc., of the operating rights set forth in License No. MC 130253, issued January 6, 1976, to Douglas Patrick Stoffers and Michael O'Meara, a partnership doing business as Daytona Beach Tours, Eau Claire, Wisc., authorizing operations as a broker at Eau Claire, Wisc. in connection with the transportation of passengers and their baggage in round trip special and charter operations beginning and ending at points in Wisconsin except from 29 specified counties and extending to points in Volusia County, Florida.

Michael O'Meara, 2842 London Square Mall, Eau Claire, Wisc. 54701, applicant.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–38079 Filed 12–27–76;8:45 am]

[Notice No. 97]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC–76745, filed September 22, 1976. Transferee: KENNETH MANCE, doing business as ALL-STATE TRANSPORT, 309 West Morrell St., Streator, Ill. 61364. Transferor: Warsaw Trucking Co., Inc., P.O. Box 1017, 1102 W. Winona Ave., Warsaw, Ind. 46580. Applicants' representative: Donald S. Mullins, registered practitioner, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC–123294 (Sub-No. 12), issued August 29, 1968, as follows: Iron and steel articles, from the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, Ill., to points in Indiana and Ohio; and materials, equipment, and supplies used in the manufacture and processing of iron and steel articles, from points in Indiana and Ohio, to the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, Ill., subject to certain restrictions. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC–FC–76794, filed October 22, 1976. Transferee: RAYMOND J. WILKE and BETTY L. WILKE, a partnership, doing business as EASTERN ILLINOIS FILM SERVICE, Route 3, Flora, Ill. 62839. Transferor: Clifford M. Burtt, doing business as Burtt's Delivery Service, No. 1 West Point Lane, St. Louis, Mo. 63131. Transferee's representative: Wm. Robin Todd, Esquire, 124 East North Avenue, Flora, Ill. 62839. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–15974, issued September 30, 1966, as follows: Films and associated articles, newspapers, and magazines, between St. Louis, Mo., and points in Illinois; cigars from St. Louis, Mo., to points in Illinois; and motion picture films and associated articles, between Flora, Ill., and Wayne City, Ill., and between Flora, Ill., and Kinmundy, Farina, and St. Francisville, Ill. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76819, filed November 9, 1976. Transferee: BEITZ WRECKER SERVICE, INC., Highway 65, Redfield, Ariz. 72132. Transferor: F. E. Beitz, doing business as Beitz Wrecker Service, General Delivery, Redfield, Ariz. 72132. Applicants' representative: Mr. Thomas J. Presson, Lot 27, Riverbend Estates, Redfield, Ariz. 72132. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 140278 Sub–1, issued November 3, 1975, as follows: Wrecked or disabled motor vehicles, by wrecker equipment only, from points in Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, to points in Arkansas; and replacement vehicles for wrecked or disabled motor vehicles by use of wrecker equipment only, from points in Arkansas to points in the origin States named above. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76833, filed November 18, 1976. Transferee: CHEECHAKO TRUCKING CO., INC., doing business as ALASKA TRUCK TRANSPORT, INC., 416 Third Street, Graell, Fairbanks, Alaska 99701. Transferor: Alaska Truck Transport, Inc., 416 Third Street, Graell, Fairbanks, Alaska 99701. Applicants' representative: Earl H. Scudder, Jr., Esquire, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 118520 Sub-5, issued May 29, 1975, as follows: General commodities, except those of unusual value, household goods, and classes A and B explosives, between points in Alaska, except points east of an imaginary line constituting a southward extension of the United States (Alaska)-Canada (Yukon Territory) Boundary line other than Haines, Alaska. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC–FC–76839, filed November 29, 1976. Transferee: COMMERCIAL STORAGE & DISTRIBUTION CO., a corporation, 432 Richmond, Rd., Texarkana, Tex. 75501. Transferor: Robert L. Torrans, doing business as Commercial Storage & Distribution Co., West 26th and Taylor St., P.O. Box 5698, Tex-

arkana, Tex. 75501. Applicants' representative: E. Lawrence Merriman, attorney at law, 803 Spruce St., P.O. Box 1049, Texarkana, Tex. 75501. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 128932, subnumbers 1, 3, 4, 5, and 7, issued September 22, 1969, March 8, 1973, October 12, 1973, October 16, 1973, and February 27, 1976, as follows: *Used household goods,* over irregular routes, between Texarkana, Tex.-Ark., and points in McCurtain County, Okla.; Red River, Bowie, Franklin, Titus, Camp, Upshur, Gregg, Harrison, Marion, Cass, Lamar, Delta, Hopkins, Wood, and Morris Counties, Tex.; Miller, Lafayette, Columbia, Union, Ouachita, Nevada, Sevier, Little River, Howard, Hempstead, Pike, Clark, Calhoun, Dallas, Garland, Bradley, Drew, Ashley, and Polk Counties, Ark.; and Caddo, Bossier, Webster, and Clairborne Parishes, La., with restrictions. And *used household goods,* over irregular routes, between Texarkana, Tex.-Ark., and points in Jefferson, Cleveland, Lincoln, Desha, Chicot and Arkansas Counties, Ark.; Panola, Rusk and Dallas Counties, Tex.; Tulsa, Creek, Wagoner, Okmulgee, Muskogee, Okfuskee, McIntosh, Haskell, Pittsburg, Hughes, Seminole, Pontotoc, Coal, Latimer, Atoka, Pushmataha, Johnston, Marshall, Bryan and Choctaw Counties, Okla.; and Bieville, Caldwell, DeSoto, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Red River, Richland, Tensas, Union and West Carroll Parishes, La., with restrictions. And general commodities, with exceptions, over irregular routes between Texarkana, Ark., on the one hand, and, on the other, points in Clark, Columbia, Hempstead, Howard, Lafayette, Little River, Montgomery, Nevada, Ouachita, Pike, Polk, Sevier, and Union Counties, Ark.; Bossier, Caddo, Clairborne, and Webster Counties, La.; McCurtain, Pushmataha, and Choctaw Counties, Okla.; and Bowie, Cass, Camp, Franklin, Lamar, Marion, Morris, Red River, and Titus Counties, Tex., with restrictions. And *prefabricated wooden trusses,* from points in Miller County, Ark., and Bowie County, Tex., to points in Arkansas, Louisiana, Oklahoma, and Texas. And *wooden shipping containers and chicken coops,* from points in Miller County, Ark., Bowie County, Tex., and Caddo and Bossier Parishes, La., to points in Arkansas, Louisana, Oklahoma, and Texas.

And *wooden ammunition containers,* from the origin points described above to points in Des Moines and Appanoose Counties, Iowa; Tuscaloosa County, Ala.; Gibson County, Tenn.; DuPage and Will Counties, Ill.; and Labette County, Kans.; and household goods as defined by the Commission over irregular routes from specified points in Texas, Oklahoma, Arkansas, and Louisiana to specified points in Texas, Oklahoma, Arkansas, and Louisiana. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-76842, filed November 29, 1976. Transferee: BOLLA FREIGHT LINES, INC., 323 South Canal, South San Francisco, Calif. 94080. Transferor: Angelo Bolla, doing business as Bolla Freight Lines, 323 South Canal, South San Francisco, Calif. 94080. Applicants' representatives: Bertram S. Silver, Esquire, and Michael J. Stecher, Esquire, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought for purchase by transferee of the operating rights of transferor as evidenced by Certificate of Registration No. MC 99980 (Sub-No. 3), issued October 14, 1975, pursuant to Certificate of Public Convenience and Necessity granted by Decision No. 84369, dated April 29, 1975, as affirmed by Decision No. 84535, dated June 10, 1975, issued by the Public Utilities Commission of the State of California. Transferee presently holds no authority from this Commission. Application for temporary authority has not been filed under section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38080 Filed 12-27-76;8:45 am]

[Ex Parte 293 (Sub-No. 11)]

PREPARATION OF DELMARVA PENINSULA STUDY ON RAIL TRANSPORTATION

Public Hearings

Notice is hereby given that, pursuant to Section 302 of the Rail Transportation Improvement Act, the Rail Services Planning Office will conduct hearings to solicit comments on the problems of, and need for, rail services on the Delmarva Peninsula, the reasons why the acquisitions of Delmarva trackage proposed under the final system plan were not consummated, and recommendations for the continuation or extension of viable rail transportation service on the peninsula.

It is therefore ordered That:

1. The hearing sites are established together with the local contact coordinator who will receive requested appearance times at the respective hearings. The dates below indicate when the hearings commence.

MONDAY, JANUARY 24, 1977

DOVER, DELAWARE

Main Conference Room, Administrative Building, Delaware Department of Transportation, U.S. Route 113, Dover, Delaware.
Contact: Virginia Summers, c/o Rail Services Planning Office, 1900 L Street, N.W., Washington, D.C., 20036. Phone: 202-254-3281.

WEDNESDAY, JANUARY 26, 1977

SALISBURY, MARYLAND

Auditorium, Holloway Hall, Salisbury State College, College Avenue at Camden Avenue, Salisbury, Maryland.
Contact: Virginia Summers, c/o Rail Services Planning Office, 1900 L Street, N.W., Washington, D.C., 20036. Phone: 202-254-3281

FRIDAY, JANUARY 28, 1977

MELFA, VIRGINIA

Lecture Hall, Eastern Shore Community College, Melfa, Virginia
Contact: Virginia Summers, c/o Rail Services Planning Office, 1900 L Street, N.W., Washington, D.C., 20036. Phone: 202-254-3281

2. Attorneys from the Office of Public Counsel have been retained by the Office to provide free legal assistance to communities, users of rail service and other interested parties in the preparation of their testimony. The assistance of these attorneys may be obtained pursuant to the hearing rules set forth below.

Interested parties may participate either by appearing in person at one of the hearings or by submitting written comments within the time prescribed below directly to the Office.

3. The following uniform rules, procedures, and practices for the hearings are established:

(a) Oral testimony will be limited to 10 minutes. Those appearing are encouraged to testify from prepared statements.

(b) Persons who wish to testify at the hearings should call or write the local contact coordinator who is identify in Item I of this Notice.

(c) Prospective witnesses will be asked to provide: their name, address, telephone number and business association, if any; and the location, time and date when they wish to appear. This information will be relayed to an attorney from the Office of Public Counsel. If prospective witnesses need the assistance of an attorney, they should so inform the contact coordinator.

(d) The attorney assigned to the hearing site will schedule all witnesses and either the attorney or the local coordinator will notify prospective witnesses of confirmed hearing appearance times. The attorney will attempt to accommodate prospective witnesses who appear at the hearing without a prescheduled appearance time.

(e) All written material for the record should be submitted on 8½×11" paper in 10 copies at the hearing or sent directly to the Rail Services Planning Office, 1900 L Street, N.W., Washington, D.C. 20036. Statements sent to the Office should arrive no later than February 14, 1977. Since the Office has a very short time for review of the testimony, statements received after February 14, 1977, will be made part of the record, but may not be reviewed by the Office.

(f) Witnesses with common interests are urged to make joint submissions.

(g) The proceedings are legislative, not judicial in nature. witnesses will not be required to testify under oath, nor will there be any cross examination or rebuttal testimony. Only questions from the presiding officer and the representative of the Office of Public Counsel will be permitted.

(h) In order to insure that the public is fully informed of the contents of the Rail Study Report and its possible impacts upon communities and rail users, the usual Interstate Commerce Commission limitations on radio and television coverage during the hearing will be relaxed. The presiding officer will permit

live news coverage in the hearing room provided that the conduct of the media representatives and the presence of radio and television equipment do not disturb the orderly conduct of the proceedings. Where courtroom facilities are used, however, the rules of the court regarding media participation will apply. The customary rules of the Commission prohibiting smoking and talking during the hearing will apply.

(i) Hearings will commence on the days specified on Item 1 of this Notice.

(j) Hearings will convene promptly at 9:30 a.m. and adjourn at 5:30 p.m. An evening session will be scheduled on the first day if appearance times are requested. The evening session will commence at 7:30 p.m. and adjourn at 10:00 p.m. Additional evening sessions may be scheduled at the discretion of the attorney and the hearing officer.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38631 Filed 12-27-76;8:45 am]

federal register

TUESDAY, DECEMBER 28, 1976

PART II

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

■

RULES AND REGULATIONS FOR MINIMUM STANDARDS FOR EMPLOYEE PENSION BENEFIT PLANS

Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS, DEPARTMENT OF LABOR

SUBCHAPTER C—MINIMUM STANDARDS FOR EMPLOYEE PENSION BENEFIT PLANS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2530—RULES AND REGULATIONS FOR MINIMUM STANDARDS FOR EMPLOYEE PENSION BENEFIT PLANS

BACKGROUND

On September 8, 1975, a notice was published in the FEDERAL REGISTER (40 FR 41654) containing a proposed and temporarily effective amendment to Chapter XXV adding a new Part 2530. Part 2530 contains regulations relating to Part 2 of Title I of the Employee Retirement Income Security Act of 1974 ("the Act"), which prescribes minimum standards for pension plans covered by Title I in the areas of participation, vesting and accrual of benefits.

Minimum standards provisions parallel to the minimum standards of Title I of the Act were added to the Internal Revenue Code of 1954 ("the Code") by Title II of the Act and appear in, among others, sections 410 and 411 of the Code. In accordance with the statutory allocation of regulatory authority between the Secretary of Labor and the Secretary of the Treasury with respect to minimum standards provisions of Title I of the Act and the Code, Part 2530 applies the minimum standards provisions Title I of the Act. A detailed explanation of the interrelationship between the minimum standards of Part 2 of Title I of the Act and those of the Code is set forth below under the heading "Inter-relationship of Part 2 and the Code."

Interested parties were given an opportunity to submit written data, views and arguments regarding proposed and temporarily effective regulations under Part 2530. The deadline for written comments was originally established as November 7, 1975, but was extended to January 9, 1976. In response to requests submitted by interested parties, a hearing was held on March 2, 1976 regarding alternatives to the definition of the term "year of service" and related provisions concerning breaks in service contained in the temporary regulations. At the hearing comments were received recommending that the Department amend the temporary regulations to provide for an elapsed time method of crediting service for pension benefits. References to the results of the hearing and the elapsed time method of crediting service appear below in the discussion of § 2530.200b–9.

While the proposed and temporarily effective regulations under Part 2530 were in the process of revision for final publication, the Department issued four ERISA Technical Releases ("ETR's") describing changes that would be made in the final version of Part 2530. ETR 2000 was issued on June 11, 1976; ETR's 2001, 2002 and 2003 were issued on June 30, 1976. The ETR's were issued in advance of the FEDERAL REGISTER publication of the final version of Part 2530 in order to provide guidance to members of the public engaged in amending pension plans to conform to the minimum standards provisions of Title I of the Act and of the Code.

This document sets forth the final version of Part 2530, as modified to take into account many of the written and oral comments received by the Department. Of particular note is a new § 2530.200b–9, which sets forth an elapsed time method of crediting service. In addition to substantive changes, this final version of Part 2530 contains revisions in the proposed and temporary regulations designed to clarify various provisions of those regulations.

Although not appearing in the September 8, 1975 proposed and temporary regulations § 2530.200b–9 is published as a temporary regulation effective immediately, as well as a proposed regulation on which public comments are solicited. The reason for making this section effective immediately on a temporary basis is that plans in existence on January 1, 1974 must meet the minimum standards of the Act for plan years beginning after December 31, 1975 within the time specified in section 401(b) of the Code. Publication of § 2530.200b–9 as a temporary regulation will enable such plans to be amended as expeditiously as possible so that they can be brought into compliance with the minimum standards provisions of the Act.

For the foregoing reason, the undersigned finds that good cause exists for making 29 CFR § 2530.200b–9 temporarily effective without advance publication, as specified in 5 U.S.C. section 553(d) (3).

Section 2530.200b–9 is also proposed for final adoption. Interested persons are invited to submit written data, views or arguments concerning that section by February 28, 1977. Such data, views and arguments should be submitted to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, Atten: Elapsed time comments. All comments should be clearly referenced to the paragraph or subparagraph to which they are directed.

Any person who desires an opportunity to comment orally on proposed § 2530.200b–9 at a public hearing should submit a written request to that effect by February 28, 1977 to the address set forth above. If a public hearing is held, notice of the date, time and place of the hearing will be published in the FEDERAL REGISTER.

INTERRELATIONSHIP OF PART 2 OF TITLE I OF THE ACT AND THE CODE

With only a few exceptions, provisions substantially identical to those contained in Part 2 of Title I of the Act are also contained in the Code. Except in certain areas where the Secretary of Labor has been specifically authorized to prescribe regulations, regulations prescribed by the Secretary of the Treasury under sections 410 and 411 of the Code apply, pursuant to section 3002(c) of the Act, to the counterpart provisions of Part 2 of Title I of the Act as well. Generally, these provisions of the Act are sections 202 (minimum participation standards), 203 minimum vesting standards) and 204 (minimum benefit accrual requirements). Conversely, regulations prescribed by the Secretary of Labor in areas where, under Part 2 of Title I of the Act, the Secretary is specifically authorized to prescribe regulations, apply to the counterpart provisions of sections 410 and 411 of the Code. Regulations relating to other provisions of Part 2 of Title I of the Act which have substantially identical counterparts of the Code but for which no exclusive authority to prescribe regulations is delegated either to the Secretary of the Treasury (or his delegate) or to the Secretary of Labor, will be issued by both the Secretary of Labor and the Secretary of the Treasury.

Regulations implementing Part 2 of Title I of the Act and, in cases where the Secretary of Labor has exclusive authority for issuing regulations relating to specific provisions, the counterpart provisions of sections 410 and 411 of the Code are contained in Part 2530. Each section contained in Part 2530 which relates to a specific section of the Act is numbered so as to indicate in the three digits following the decimal point the section of the Act to which it relates. For example, § 2530.202–2 relates to section 202 of the Act. Regulations relating to more than one section of Part 2 of Title I of the Act are set forth in Subpart A, Scope and General Provisions (i.e., sections of Part 2530 numbered ".200").

With few exceptions, such as the regulations pertaining to coverage, the regulations presently being issued pertain to areas for which regulatory authority is specifically delegated to the Secretary of Labor for purposes of part 2 of Title I of the Act and sections 410 and 411 of the Code.

FRAMEWORK AND BASIC STANDARDS OF PART 2 OF TITLE I OF THE ACT

The rules contained in Part 2530 are applicable to the minimum participation, vesting and benefit accrual standards of sections 202, 203 and 204 of Part 2 of Title I of the Act. While regulations issued by the Secretary of the Treasury under sections 410 and 411 of the Code represent the authoritative interpretations of the minimum standards provisions both of Title I of the Act and of the Code in areas where the Secretary of the Treasury is authorized to prescribe regulations, an outline of the overall scheme of the minimum standards is set forth below solely in order to enable Part 2530 to be understood in context.

It should be emphasized that plan provisions more liberal than the standards of the Act are not prohibited. For example, under section 202(a)(2) of the Act most pension plans may not require, as a condition of participation in the plan, that an employee complete a period of service with the employer maintaining the plan extending beyond the later of the date on which the employee attains age 25 or completes 1 year of service. A plan to which section 202 of the Act applies, however, could provide that every

employee is eligible to participate regardless of age or service or that an employee who has attained age 24 is eligible to participate.

(1) *Eligibility To Participate.* Section 202 requires generally that an employee cannot be excluded from a plan on account of age or service if he or she is at least 25 years old and has had at least one year of service. However, if the plan provides full and immediate vesting for all participants, it may require employees to complete three years of service in order to participate (e.g., H.R. 10 or Keogh Plans). As an alternative, any plan which is maintained exclusively for employees of a tax-exempt educational organization which provides full and immediate vesting for all participants may have a participation requirement of age 30, with one year of service.

In general, for purposes of the participation requirements, the term "year of service" means a 12-month period during which an employee has at least 1,000 hours of service. This 12-month period is measured from the date the employee commences employment. Thus, the employee has fulfilled his or her 1,000-hour requirement if he or she has 1,000 hours of service by the first anniversary of the date of employment. The employee (if age 25 or older) must then be admitted to the plan within six months of his or her first anniversary date of employment or by the beginning of the first plan year following the first anniversary date, whichever occurs earlier. (Of course, this does not mean that an employee must be admitted to the plan if he or she may lawfully be excluded for reasons other than age or service.) If an employee does not complete 1,000 hours of service by the first anniversary of the date of employment but is still employed on the first anniversary date, then he or she starts over toward meeting the 1,000 hour requirement. For this purpose, a plan may provide (on a consistent basis) that the relevant 12-month period for starting over is either (a) the year between the first anniversary of employment and the second anniversary of employment, or (b) the plan year which begins before the first anniversary of the date of employment.

The regulations with respect to the definition of the term "year of service" for purposes of eligibility to participate are found in §§ 2530.202–1 and 2530.202–2, which introduce the concept of the "eligibility computation period" as the 12-month periods for determining eligibility to participate. A definition of the term "hour of service" is set forth in subpart A of part 2530 (specifically, in § 2530.200b–2), along with other provisions pertaining to computing years of service. Among these are provisions of § 2530.200b–3, which permit the use of equivalencies to determine the number of hours of service to be credited to employees in each computation period. This regulation is designed to enable plans to avoid record-keeping difficulties associated with the crediting of hours of service.

The Secretary of Labor is authorized to prescribe regulations which provide for the calculation of an employee's period of participation on any reasonable and consistent basis. The regulations with respect to the definition of the term "year of participation" are found in § 2530.204–1. In addition, § 2530.204–2 introduces the concept of an "accrual computation period" for plans which are required to provide for benefit accrual on a yearly basis. Some plans with certain defined benefit formulas are not required to accrue benefits on a yearly basis; the rules with respect to these plans are found in § 2530.204–3.

(2) *Vesting.* Section 203 requires that a plan must provide full and immediate vesting in benefits derived from employee contributions. With respect to an employee's accrued benefit derived from employer contributions, a plan (unless it is a class-year plan) must generally meet one of three alternative minimum vesting standards, which are expressed in terms of the percentage of the employee's accrued benefit which must be vested at specified points in the employee's career. The provisions of a plan governing an employee's vested percentage at specified points in the employee's career are commonly referred to as the plan's "vesting schedule". Generally, all of an employee's years of service with an employer (including pre-participation years of service, and years of service performed before the effective date of the Act) are to be taken into account for purposes of determining his or her place on the vesting schedule. However, the plan may ignore certain periods; for example, periods for which the employee declined to make mandatory contributions to the plan or periods for which the employer did not maintain the plan or a predecessor plan, as defined in Treasury regulations. Generally, the plan may also ignore service performed before age 22; however, if a plan elects to use the "Rule of 45" as a vesting schedule, service before age 22 may be ignored only if the employee was not a participant in the plan for the years before age 22. Service performed prior to January 1, 1971 may also be ignored by the plan, unless (and until) the employee has at least 3 years of service after December 31, 1970. In addition, if the employee has had a "1-year break in service", service performed prior to the break may be ignored to the extent permitted under the "break in service" rules of section 203(b)(3).

All of the vesting schedules and the rules governing service which must be taken into account in determining an employee's place on the plan's vesting schedules are expressed in terms of "years of service." Years of service for purposes of vesting are not necessarily the same as years of service for purposes of eligibility to participate in the plan, and §§ 2530.203–1 and 2530.203–2 of these regulations introduce the concept of a "vesting computation period" for determining the 12-month period which must be taken into account as a year of service for vesting purposes. The vesting computation period will also be used for other purposes, such as calculating breaks in service, with some exceptions.

(3) *Accrual of Benefits.* Section 204 requires plans other than defined benefit plans to make a separate accounting for each employee's accrued benefit. A defined benefit plan is required to satisfy one of three accrued benefit tests (which limit the extent to which a plan may "back-load" benefit accrual—i.e., the extent to which a plan may increase the rate of benefit accrual in the latter years of a participant's career).

SECTION-BY-SECTION ANALYSIS

§§ 2530.200a–1, 2530.200a–2, and 2530.200a–3. These sections deal with the interrelationship of the minimum standards provisions of Title I of the Act and regulations prescribed thereunder with those of the Code. They have not been substantively modified from the temporary regulations.

§ 2530.200b–1. Paragraph (a) of § 2530.200b–1 describes the relationship between the various computation periods established pursuant to sections 202, 203 and 204 of the Act and sections 410 and 411 of the Code (see *Framework and Basic Standards of Part 2 of Title I of the Act* above). Paragraph (b) states rules generally applicable to all computation periods. This section does not, however, establish rules governing each type of computation period. Those rules are stated principally in §§ 2530.202–2, 2530.203–2 and 2530.204–2.

In general, years of service, years of participation and 1-year breaks in service are determined on the basis of the number of hours credited to an employee during an applicable computation period. There are three basic types of computation periods: (1) the eligibility computation period, used to determine eligibility to participate in the plan (and, if a plan so provides, deferral of benefit accrual for two years); (2) the vesting computation period used to determine the employee's place on the vesting schedule and, with certain exceptions, to determine a break in service; and (3) the accrual computation period used to determine whether an employee, once a participant in a defined benefit plan, will accrue full, partial or no retirement benefits for the period.

The eligibility computation period and the vesting computation period are generally 12-consecutive-month periods. The accrual computation period is usually a 12-consecutive-month period, but special rules are provided for shorter periods resulting from plan amendments changing the accrual computation period. Plans which provide for benefit accrual on the basis of an employee's total service under the plan are not required to use 12-consecutive-month accrual computation periods if the plan can show that, under the benefit accrual method used, one of the minimum benefit accrual rules will be met under all circumstances (see § 2530.204–3).

Under the minimum standards provisions, an employee who completes 1,000 hours of service during an applicable computation period must generally be credited with a year of service for vest-

ing and a year of service for eligibility to participate in the plan. Under a plan which determines benefit accrual on the basis of computation periods, the number of hours of service required for full accrual of benefits in each accrual computation period may be established by the plan, but an employee who completes 1,000 or more hours of service during an accrual computation period must be given at least a ratable portion of the full accrual. Employment in service covered by a defined benefit plan for the full computation period is not required for obtaining credit for that period; a year's credit is to be determined solely on the basis of the number of hours of service completed during the applicable computation period.

A plan may designate any 12-consecutive-month period as the vesting computation period. Similarly, a plan which uses an accrual computation period as a basis for determining benefit accrual may desingate any 12-consecutive-month period as the accrual computation period. These periods are not required to coincide with the plan year, which is defined under section 3(39) of the Act as the year on which the records of the plan are kept. Part 2530 permits a wide degree of latitude in a plan's choice of 12-month periods to serve as computation periods in order to provide for flexibility in plan design. As a result, a plan may designate one 12-month period as the vesting computation period and the same or a different 12-month period as the accrual computation period. However, plans may find it advantageous, in order to simplify recordkeeping, to designate the plan year as both the vesting and accrual computation period. This approach would allow all recordkeeping to be on one period unless the plan has a minimum service requirement for eligibility to participate, in which case the eligibility computation period must, under section 202(a)(3)(A) of the Act, begin with the date on which an employee's employment commenced. A plan may, however, determine years of service for purposes of eligibility to participate, after an employee's initial eligibility computation period, on the basis of the plan year. Of course, a plan may also designate all three computation periods (eligibility, vesting and accrual) to be the 12-consecutive-month periods which begin with the employment commencement date and anniversaries thereof. This approach, however, probably will not serve the recordkeeping needs of most plans.

Paragraph (a) of § 2530.200b–1 has been revised for purposes of clarity. In addition, references to the equivalencies permitted under § 2530.200b–3 and to the elapsed time method of crediting service permitted under § 2530.200b–9 have been added.

In paragraph (b) of § 2530.200b–1, language has been added to make it clear that, although employment on the last day of a computation period is not determinative of whether an employee receives credit for a year of service or partial year of participation for the computation period, a plan may under certain circumstances provide that certain consequences result from an employee's failure to be employed on a particular date. Specifically, the regulation states that an individual account plan (such as a profit-sharing plan) is not subject to certain accrual requirements set forth in the minimum standards provisions of the Act and the Code and, therefore, may provide that a former plan participant who has separated from service before, e.g., the date on which employer contributions are allocated among participants' accounts does not share in such allocation. This rule is implicit in the accrual provisions of the Act and the Code, and was stated earlier in ETR 2000. It has been made explicit in the final version of § 2530.200b–1(b).

Paragraph (b)(1) of § 2530.200b–1 as it appeared in the temporary regulations has been eliminated. Paragraph (b)(1) would have required that where alternative computation periods are permitted under the Act and under Subpart B of Part 2530, the selected alternative be set forth in the plan documents. In order to draft a plan which meets the minimum standards provisions, it will generally be necessary to state all computation periods used by the plan, not merely those chosen as alternatives.

Section 2530.200b–2. An hour of service is the basic unit of service which must be credited to an employee under the minimum standards provisions in determining whether the employee is entitled to a year of service or partial year of participation, or incurs a 1-year break in service, in an applicable computation period. In § 2530.200b–2, a definition of "hour of service" is set forth (paragraph (a)), together with rules for determining the number of hours of service which must be credited to an employee on account of certain periods during which the employee is not engaged in the performance of duties (paragraph (b)), rules for determining to which computation period hours of service must be credited (paragraph (c)), and other matters.

Under the definition of the term "hour of service" set forth in § 2530.200b–2(a), three categories of hours must be credited to an employee: (1) hours for which the employee is paid for the performance of duties, (2) hours for which back pay is awarded, and (3) hours for which an employee is paid on account of a period during which no duties are performed due to vacation, holiday, illness, incapacity, layoff, jury duty, military service or leave of absence. Such hours must be credited to an employee regardless of whether contributions are required to be made to the plan on account of such hours or whether such contributions, even though required, have not in fact been made.

The treatment of the third category of hours described above—hours for which an employee is paid even though no duties are performed—is different under the final regulations than under the temporary regulations. Under the temporary regulations, these hours were required to be credited to an employee solely for the purpose of determining whether the employee incurred a 1-year break in service in a particular computation period. Some comments objected to crediting such hours for purposes of breaks in service on the grounds that they are unproductive. Comments also pointed out that crediting these hours creates administrative problems, particularly for multiemployer plans which receive from employers only records of hours for which contributions are made to such plans. Other comments took the opposite view, urging that hours in the third category described above be credited for all purposes, citing the expansive view of the term "service" adopted in cases such as *Social Security Board v. Nierotko*, 329 U.S. 359 (1945). Still other comments suggested that hours of service should be credited for periods during which no duties are performed by reason of, e.g., sickness or vacation, regardless of whether compensation is paid for such periods.

The approach taken in § 2530.200b–2(a)(3), which was announced in ETR 2001, requires that hours of service be credited for all purposes for periods during which no duties are performed due to vacation, holiday, illness, incapacity, severance or layoff. This approach is consistent with the view that the term "service" includes "not only work actually done, but the entire employer-employee relationship for which compensation is paid." Nierotko, supra, at 365–366. The final regulation does not, however, require crediting of hours of service for periods which are not compensated.

In order to ease administrative difficulties associated with crediting hours of service for periods during which no duties are performed, § 2530.200b–3 permits certain equivalencies to be used in calculating the number of hours of service to be credited to employees in computation periods—in particular, equivalencies which enable a plan to determine hours of service on the basis of working time or compensation.

In addition, the final regulation limits the number of hours of service which must be credited on account of any single, continuous period during which no duties are performed to 501, the number of hours of service generally necessary to avoid a 1-year break in service in a computation period. Further, an employee is not required to be credited with hours of service as a result of payments from a plan maintained solely to comply with applicable workmen's compensation, unemployment compensation or disability insurance laws. Hours of service are also not required to be credited for payments which reimburse an employee solely for medical or medically related expenses incurred, since such payments do not compensate the employee for hours of working time lost by the employee for medical reasons.

Under § 2530.200b–2(a)(3), termination of the employment relationship does not necessarily end crediting of hours of service. Thus, a disabled employee who, although terminated from employment, continues to receive payments for

his disability must continue to receive credit for hours of service until the 501-hour maximum is reached.

It is intended that the term "incapacity" used in § 2530.200b–2(a)(3) and elsewhere in Part 2530 include both the conventional notion of "disability" and other conditions, such as pregnancy, which prevent an employee from performing duties.

Paragraph (b) of § 2530.200b–2 sets forth a special rule for determining hours of service for reasons other than the performance of duties. Paragraph (b) corresponds roughly to § 2530.200b–2(b)(2) of the temporary regulations. The approach taken in the final regulation, however, differs from that of the temporary regulations. Under the temporary regulations, the number of hours of service credited for a paid period during which no duties were performed was determined by dividing the amount of the payment by the lesser of the employee's most recent hourly rate of compensation or the average crediting an employee with less than the number of working hours in a period during which the employee was compensated at less than the employee's normal rate. For example, where an employee receives disability payments equal to 80 percent of his normal wages, the employee would receive credit for only 80 percent of the number of working hours in the period covered by the payment. Other comments pointed out that by requiring hours of service to be calculated on the basis of the average hourly rate of compensation of an employee for the most recent computation period in which the employee completed more than 500 hours of service, the rule could result, in years when wages are rising, in the crediting of more hours of service than the number of working hours in the period during which no duties are performed.

Under § 2530.200b–2(b)(1) of the final regulations, payments for periods during which no duties are performed are grouped in two categories: payments which are calculated on the basis of units of time, such as hours, days, weeks or months, and payments which are not so calculated. For example, a payment based on an employee's normal wages, or a percentage of his normal wages, for a period of illness is calculated on the basis of the units of time in such period. By contrast, a lump-sum disability payment compensating an employee for incapacity, determined on the basis of a schedule of injuries, is not calculated on the basis of units of time.

The number of hours of service credited for a payment calculated on the basis of units of time is the number of regularly scheduled working hours included in the units of time on the basis of which the payment is calculated. If an employee has no regular work schedule, a plan may provide for such calculation on any basis which reflects the average hours worked by the employee over representative periods of time, or may use a 40-hour workweek or 8-hour workday as a basis for such calculation regardless of whether the employee averages a greater or a lesser number of hours per week or per day, as the case may be. The basis chosen by the plan must be applied consistently with respect to all employees within the same reasonably defined job classification.

A payment which is not calculated on the basis of units of time is treated in a manner similar to that in which payments for reasons other than the performance of duties were treated under the temporary regulations: the amount of the payment is divided by an hourly rate. For an employee paid on an hourly basis, the employee's most recent hourly rate is used to avoid the over-counting of hours that would be caused by requiring the use of an average hourly rate whenever that rate was lower than the most recent rate. For an employee not paid on an hourly basis, but on the basis of a fixed rate for specified periods of time, such as days, weeks or months (e.g., a monthly salary), the hourly rate is determined by dividing the employee's most recent rate of compensation by the number of hours regularly scheduled for the performance of duties during the period used as a basis for such rate. If the employee has no regular work schedule, the hourly rate may be calculated on the basis of an average of hours worked, or on the basis of a 40-hour workweek or an 8-hour workday. If an employee is not paid on the basis of a fixed rate for a specified period of time (e.g., a commission salesman), the plan may use the lowest hourly rate of compensation payable to an employee in the same job classification as the employee or the minimum wage prescribed under the Fair Labor Standards Act of 1938, as amended.

An additional limiting rule is applicable to both payments calculated on the basis of units of time and payments not so calculated: The number of hours of service that must be credited need not exceed the number of hours regularly scheduled for the performance of duties during the period for which the payment is made.

Paragraph (c) of § 2530.200b–2 sets forth rules relating to the crediting of hours of service to computation periods. The material in this paragraph was included in paragraphs (a)(1), (a)(2) and (b)(1) of § 2530.200b–2 of the temporary regulations. Under the final regulation, hours of service credited for the performance of duties are credited to the computation period in which the duties are performed. Hours of service credited as the result of a back-pay award or agreement are credited to the computation period to which the award or agreement pertains. Hours of service credited for a payment on account of a period during which no duties are performed due to vacation, holiday, illness, etc., are credited as follows. Hours of service credited for a payment calculated on the basis of units of time must be credited to the computation period or computation periods in which the period during which no duties are performed occurs, beginning with the first unit of time to which the payment relates. Hours of service credited for a payment not calculated on the basis of units of time must be credited to the computation period in which a period of time when no duties are performed occurs, or if the period of nonperformance of duties extends beyond one computation period, such hours of service must be allocated to not more than the first two such computation periods, on any reasonable basis which is consistently applied. For example, if an employee receives a lump sum payment resulting in the crediting of 501 hours of service for a long-term disability which incapacitates the employee for a period of several years, all 501 hours must be allocated to the first two computation periods during which the employee is disabled. The plan may not allocate any part of the 501 hours to later computation periods during which the employee is disabled.

A new rule is provided in § 2530.200b–2(c)(4) to ease certain administrative problems in connection with payments for periods which overlap two computation periods. Comments on the temporary regulations indicated that when an employer's payroll period overlaps two computation periods, the employer's payroll records might not indicate to which computation period hours of service creditable for the payroll period are to be allocated. In this situation, to require a determination to be made as to the number of hours of service to be credited to either payroll period for each employee would create a difficult administrative burden for the plan. Accordingly, paragraph (c)(4) permits a plan to credit all hours of service for a period of no more than 31 days which extends beyond one computation period either to the first or to the second computation period on a consistent basis. The 31-day limitation reflects the fact that few employers use payroll periods extending beyond a month and minimizes distortion of an employee's credit for hours of service.

§ 2530.200b–3. This section prescribes methods by which service to be credited to employees may be determined. Paragraph (a) of this section which states the general rule for determination of hours of service, has been revised primarily for purposes of clarity. Paragraph (b), which corresponds to paragraph (c) of § 2530.200b–3 of the temporary regulations, has also been revised, and an explicit reference to the use of equivalencies or elapsed time for purposes of determining hours of service completed before the effective date of Part 2 of Title I of the Act has been added. Thus, even if a plan uses the basic method of counting each hour worked and each hour for which payment is made for each employee with respect to post-effective date service, the plan may use equivalencies or elapsed time to determine pre-effective date service.

The primary focus of the comments on § 2530.200b–3 as it appeared in the tem-

porary regulations was the need for a more flexible system of equivalencies for determining hours of service. The only alternative method of determining hours of service permitted under the temporary regulations was set forth in paragraph (b) of § 2530.200b–3. Use of that alternative was limited to situations where determination of hours of service under the general rule would be virtually impossible—for employees whose compensation is not determined on the basis of certain amounts of compensation for each hour worked during a given period and whose hours are not required to be counted and recorded under any other federal law, such as the Fair Labor Standards Act of 1938. Many of the comments suggested that the Department should permit the use of a greater variety of alternative methods of determining hours of service to be credited to employees, particularly alternatives which take into account existing recordkeeping systems. The comments pointed out that in many situations where strict counting of hours is not absolutely impossible, simpler methods of determining service to be credited will result in lower administrative costs for plans.

Accordingly, in ETR 2001 the Department announced that paragraph (b) of § 2530.200b–3 of the temporary regulations would be replaced by provisions permitting the use of a number of equivalencies designed to accommodate use of a wide variety of recordkeeping systems as a basis for determining hours of service to be credited under pension plans. The equivalencies have been structured so as to ensure that inaccuracies resulting from their use will generally work in favor of employees.

Paragraph (c) of § 2530.200b–3 sets forth general rules applicable to the use of the equivalencies described in the three subsequent paragraphs. Any equivalency used by a plan must be set forth in the document under which the plan is maintained. A plan may use different methods of crediting service, including the general method of counting each hour required to be credited under § 2530.200b–2, the equivalencies, and elapsed time, for different classifications of employees or for different purposes. For example, a plan may use the general method of counting each hour for purposes of participation but an equivalency based on earnings permitted under § 2530.200b–3(f) for purposes of vesting and benefit accrual. A separate classification of employees may be created which includes only part-time employees, provided that the classification is reasonable. In keeping with the general proposition that Part 2530 does not modify or impair requirements imposed by, among other provisions, section 401(a)(4) of the Code, relating to prohibited discrimination, § 2530.200b–3 contains a notice that use of a particular combination of methods of crediting service might result in discrimination prohibited by section 401(a)(4) of the Code.

Paragraph (d) sets forth equivalencies which enable a plan to credit service on the basis of working time. Under one such equivalency, a plan may credit an employee with only those hours actually worked. The employee must then be credited with a year of service or at least a partial year of participation for benefit accrual purposes (or both, depending on the purpose for which the hours of credit are applied), if he or she is credited with 870 hours worked in an applicable computation period, and the employee may not incur a one-year break in service if credited with more than 435 hours worked. The difference between the standards for determining a year of service or partial year of participation and a one-year break in service under the Act and the corresponding standards under the equivalencies represents a premium designed to compensate for omitting the hours of service which would be credited to an employee under § 2530.200b–2(a)(3)—i.e., hours credited for periods during which no duties are performed due to vacation, holiday, illness, etc.

Also permitted under paragraph (d) is an equivalency under which an employee is credited only with regular time hours, i.e., hours worked excluding overtime hours. Under this equivalency, the statutory minimum standards are reduced by an even larger amount in order to reflect the fact that overtime hours, as well as hours which would be credited for periods of absence under the basic method, are not credited. Under a plan using the equivalency based on regular time hours, an employee must be credited with a year of service or at least a partial year of participation if credited with 750 regular time hours, and may not incur a break in service if credited with more than 375 regular time hours.

Paragraph (e) sets forth equivalencies based on periods of employment. These equivalencies are designed primarily to enable a plan to use a recordkeeping system geared to an employer's payroll periods or other periods on the basis of which pay records are maintained. Each equivalency requires that an employee be credited with a specified number of hours of service for each period of employment for which the employee would be credited with at least an hour of service under the basic method of counting each hour of service. The periods of employment on which the equivalencies are based are days, weeks, semi-monthly payroll periods, months and shifts. Each of these equivalencies, other than the equivalency based on shifts, requires that an employee who receives credit for the period must be credited with a larger than normal number of hours of service for the period, in order to account for the possibility that an employee may work long hours in any particular period. Under the equivalency based on days of employment, 10 hours of service must be credited for each day of employment; under the equivalency based on semi-monthly payroll periods, 95 hours for each such period; under the equivalency based on months, 190 hours for each month.

In the case of shifts, a plan is required to credit only the number of hours that are included in a shift, and the times of the beginning and end of each shift used as a basis for crediting service must be set forth in a document referred to in the plan. Under the equivalency based on shifts, an employee must be credited with a shift if he or she works one hour in the shift. Therefore, if an employee, after completing one shift, performs an hour of service during the following shift, the employee must be credited with the number of hours in two full shifts.

Paragraph (e)(4) contains a special rule under the equivalencies based on periods of employment for payments described in § 2530.200b–2(b)(2)—i.e., payments which result in the crediting of hours of service for periods during which no duties are performed due to vacation, holiday, illness, etc., but which are not calculated on the basis of units of time. Under the special rule, hours of service resulting from such payments are determined in the same manner as under the general rule set forth in § 2530.200b–2(b). Thus, hours credited for such a payment are determined by dividing the amount of the payment by an hourly rate, which is calculated as provided in § 2530.200b–2(b). The exceptional treatment of these payments under the equivalencies based on periods of employment is designed to avoid an elaborate and unnecessary set of rules prescribing the manner in which hours resulting from such payments would be allocated to periods of employment during an employee's absence from employment.

A plan may combine an equivalency based on periods of employment (i.e., days, weeks, semi-monthly payroll periods, months or shifts) with an equivalency based on working time (i.e., hours worked or regular time hours). In such case, the plan must credit an employee with the same number of hours worked or regular time hours as the number of hours of service which would be credited under the equivalencies based on periods of employment, for each period of employment in which the employee performs at least one hour worked or at least one regular time hour. As under the equivalencies based on working time, 870 hours worked and 150 regular time hours are treated as equivalent to 1000 hours of service, and 435 hours worked and 375 regular time hours are treated as equivalent to 500 hours of service.

Paragraph (f) permits the use of two equivalencies based on earnings for determining service to be credited to employees: an equivalency for hourly employees and an equivalency for non-hourly employees. Under the equivalency for hourly employees, an hourly employee is credited with the number of hours equal to the employee's total earnings for a computation period divided by the employee's lowest hourly rate of compensation or his or her actual rates of compensation during the computation period. Because an hourly employee's total earnings for a computation period will reflect hours of overtime performed by

the employee during the computation period, hours credited under this equivalency are treated in the same manner as under the equivalency based on hours worked: If an employee is credited with 870 hours in a computation period, the employee is credited with a year of service or at least a partial year of participation; if the employee is credited with more than 435 hours in a computation period, the employee does not incur a 1-year break in service. In order to avoid the over-counting of hours that would result under this equivalency where an employer pays a premium rate for overtime hours, the regulation provides that the plan may adjust for such hours.

Under the equivalency based on earnings for non-hourly employees, an employee is credited with the number of hours equal to the employee's total earnings for the performance of duties during the computation period divided by an hourly rate determined for the employee in the manner described below. Since the total earnings of a non-hourly employee might not reflect overtime, hours credited under this equivalency are treated in the same manner as under the equivalency based on regular time hours: If an employee is credited with 750 hours in a computation period, the employee is credited with a year of service or at least a partial year of participation, and if the employee is credited with more than 375 hours in a computation period, the employee does not incur a 1-year break in service.

For purposes of applying the equivalency based on earnings for non-hourly employees, an hourly rate is determined as follows. In the case of an employee whose compensation is determined on the basis of a fixed rate for a specified period of time (other than hours) such as a day, week or month, the employee's hourly rate is determined by dividing either the employee's lowest rate or his or her actual rates of compensation for such specified period by the number of hours regularly scheduled for the performance of duties during that period. If the employee has no regular work schedule, the plan may use a 40-hour workweek, or an 8-hour workday, or a reasonable basis which reflects the average hours worked by the employee over a representative period of time, to determine the employee's hourly rate, provided that the basis used is applied consistently to all employees within the same job classification, reasonably defined. In the case of an employee whose compensation is not determined on the basis of a fixed rate for a specified period of time, the minimum wage under the Fair Labor Standards Act of 1938 must be used.

§ 2530.200b–4. Sections 202(b) and 203(b)(3) of the Act and sections 410(a)(5) and 411(a)(6) of the Code permit a plan to disregard certain service for purposes of eligibility to participate and vesting under certain circumstances if an employee incurs one or more one-year breaks in service. The general approach set forth in the temporary regulations to the computation periods used for measuring one-year breaks in service has not been changed in the final regulations.

The rules relating to one-year breaks in service may be summarized as follows. A one-year break in service is defined as a 12-consecutive month period during which an employee is not credited with more than 500 hours of service. If an employee incurs a one-year break in service, years of service before such break are not required to be taken into account until the employee completes a year of service upon his or her return. In addition, under a defined contribution plan, years of service after a one-year break in service are not required to be taken into account in determining an employee's vested right to the accrued benefit derived from employer contributions which accrued before the break. An employee who has not yet acquired any vested percentage in an accrued benefit derived from employer contributions may be subject to the so-called "rule of parity," under which a plan may provide that the employee may lose credit for purposes of participation or vesting when the employee incurs a number of consecutive one-year breaks in service which equals or exceeds the number of years of service credited to the employee before the consecutive one-year breaks in service. Finally, a plan described in section 202(a)(1)(B)(i) of the Act and section 410(a)(1)(B)(i) of the Code (i.e., a plan that requires three years of service for eligibility to participate in the plan) may provide that an employee who incurs a one-year break in service before meeting the eligibility requirement loses all credit for service before the one-year break in service.

The break in service rules of the Act make it necessary to prescribe in Part 2530 three basic types of computation periods for purposes of participation and for purposes of vesting: the computation periods used for measuring one-year breaks in service, the computation periods used for measuring completion of a year of service upon an employee's return after a one-year break in service, and the computation periods used for measuring years of service before consecutive one-year breaks in service in applying the "rule of parity." The computation periods used for measuring years of service before consecutive one-year breaks in service are set forth in §§ 2530.202–2 and 2530.203–2, relating to eligibility computation periods and vesting computation periods, respectively.

The primary focus of the comments on the one-year break in service rules set forth in the temporary regulations was that, generally, the regulations did not permit a plan to choose the 12-consecutive-month period to be used for measuring one-year breaks in service, but required plans to use computation periods established for other purposes. Some comments suggested that a plan should be permitted to establish any 12-consecutive-month period as the computation period to be used for measuring one-year breaks in service. Other comments urged that a plan which does not provide that an employee incurs a one-year break in service unless the employee terminates employment with the employer be permitted to use a computation period beginning on the date of termination for measuring one-year breaks in service.

After consideration of the comments, it was decided to retain the general approach of the temporary regulations to the break in service computation periods. Particularly for purposes of the "rule of parity", the computation periods used for measuring one-year breaks in service must be the same as the computation periods used for measuring years of service before the consecutive one-year breaks in service. If other computation periods were allowed; complex rules would be necessary to deal with the overlap between pre-break in service computation periods and one-year break in service computation periods, or to deal with service between the end of the last pre-break computation period and the beginning of the computation period used for determining the first one-year break in service. To avoid these and similar problems, the one-year break in service rules require the use of computation periods that were established for other purposes in measuring one-year breaks in service.

In conjunction with changes in § 2530.202–2, relating to eligibility computation periods, the one-year break in service rules have been revised to facilitate use of the plan year as the computation period for all purposes other than for the initial eligibility computation period (and the initial computation period for measuring completion of a year in service after a one-year break in service).

Under § 2530.200b–4, as revised, a plan must use the vesting computation period in measuring one-year breaks in service for purposes of vesting, as well as in measuring completion of a year of service for vesting after a one-year break in service.

In measuring breaks in service for purposes of eligibility to participate, a plan must use the same computation period that it uses in measuring years of service for eligibility to participate. Similarly, under § 2530.202–2(c), in measuring years of service before consecutive one-year breaks in service for purposes of eligibility to participate, a plan must use the same computation period that it uses in measuring years of service for eligibility to participate.

Under § 2530.202–2(a), a plan must use the 12-consecutive-month period beginning on an employee's employment commencement date as the initial computation period for measuring years of service for eligibility to participate. After the initial eligibility computation period, the plan may continue to use eligibility computation periods beginning on anniversaries of the employment commencement date in measuring years of service for eligibility to participate, or may use plan years. If a plan uses plan years to measure years of service for eligibility to participate, it must also use plan years for measuring one-year breaks

in service for eligibility to participate, and years of service before consecutive one-year breaks in service in applying the "rule of parity" for purposes of eligibility to participate.

In measuring completion of a year of service after a one-year break in service for eligibility, section 202(b)(3) of the Act and section 410(a)(5)(C) of the Code require a plan to use the same rules prescribed for measuring years of service for purposes of eligibility to participate in section 202(a)(3) of the Act and section 410(a)(3) of the Code. Accordingly, paragraph (b) of § 2530.20b–4 provides that in measuring completion of a year of service upon an employee's return after a one-year break in service, a plan must use the 12-consecutive-month period beginning on the employee's reemployment commencement date.

In the situation where an employee returns after a one-year break in service, the reemployment commencement date is analogous to the employment commencement date. The reemployment commencement date is defined as the first day on which an employee is credited with an hour of service for the performance of duties after the first eligibility computation in which the employee incurs a one-year break in service following an eligibility computation period in which the employee is credited with more than 500 hours of service. Thus, when an employee incurs a one-year break in service the employee generally has no more than one reemployment commencement date, regardless of whether the first one-year break in service is followed by further one-year breaks in service. In the case of an employee who terminates employment covered by the plan, the reemployment commencement date will generally occur when the employee is rehired. In the case of an employee who continues in employment covered by the plan but fails to be credited with more than 500 hours of service in an eligibility computation period, the reemployment commencement date could occur on the first day of the following eligibility computation period, i.e., if the employee is credited with an hour of service for the performance of duties on that day.

The situation may occur where an employee who has incurred a one-year break in service for eligibility to participate without terminating employment covered under the plan subsequently terminates such employment without having met the plan's requirement of completion of a year of service upon an employee's return after a one-year break in service. When such an employee later returns to covered employment, the statutory language contemplates that the employee must be given a new opportunity to complete a year of service in a 12-consecutive-month period beginning on the date of his or her return. Accordingly, an employee is treated as having a new reemployment commencement date on the first day the employee is credited with an hour of service for the performance of duties after an eligibility computation period in which the employee is credited with no hours of service. Crediting of no hours of service to an employee in a computation period is generally an indication that the employee has terminated employment.

After the initial computation period, in measuring completion of a year of service for eligibility upon an employee's return after a one-year break in service, a plan which uses plan years to measure years of service for eligibility after the initial eligibility computation period must use plan years, while a plan which uses eligibility computation periods beginning on anniversaries of an employee's employment commencement date must use computation periods beginning on anniversaries of an employee's reemployment commencement date.

Thus, a plan may designate the plan year as the computation period for all purposes, except the initial eligibility computation period and computation periods following reemployment commencement dates for measuring completion of a year of service following a one-year break in service. This result may be accomplished by designating the plan year as the vesting computation period, the accrual computation period and the computation period to be used for measuring years of service for eligibility after the initial eligibility computation period.

Maritime industry. (§§ *2530.200b–6, 2530.200b–7 and 2530.200b–8*). Sections 202(a)(3)(D), 203(b)(2)(D) and 204(b)(3)(E) of the Act and sections 410(a)(3)(D), 411(a)(5)(D) and 411(b)(2)(E) of the Code permit plans covering employees in the maritime industry to determine service to be credited to such employees on the basis of days of service rather than hours of service. Under those sections, 125 days of service are equated with 1000 hours of service. In §§ 2530.200b–6, 2530.200b–7 and 2530.200b–8, rules are set forth relating to days of service in the maritime industry which are analogous to the rules relating to hours of service set forth in §§ 2530.200b–2 and 2530.200b–3. Accordingly, the provisions relating to days of service have been revised to conform to those relating to hours of service. Completing the special regulations for the maritime industry, under § 2530.200b–4(a)(1), 62 days of service may be equated with 500 hours of service for purposes of one-year breaks in service.

The provisions of the Act and the Code which contemplate the crediting of service on the basis of days of service in the maritime industry are permissive, rather than mandatory, in nature. Thus, a plan covering employees in the maritime industry may credit service for such employees either on the basis of days of service, as defined in § 2530.200b–7(a), or on the basis of hours of service, as defined in § 2530.200b–2(a). Thus, a plan covering employees in the maritime industry may credit service for such employees on the basis of any of the equivalencies permitted under § 2530.200b–3(d), (e) and (f), or may use the elapsed time method of crediting service permitted under § 2530.200b–9. Since the equivalencies permitted under § 2530.200b–3 may be used with respect to employees in the maritime industry, no equivalencies have been provided for determining days of service.

In the case of a plan covering both employees in the maritime industry, as defined in paragraph (b) of § 2530.200b–6, and employees who are not in the maritime industry, the plan may credit service on the basis of days of service only for those employees who are in the maritime industry. For employees who are not in the maritime industry, however, service may be determined on the basis of days of employment under § 2530.200b–3(e)(1)(i). The definition of the term "maritime industry" in paragraph (b), which corresponds to paragraph (a) of § 2530.200b–6 of the temporary regulations, has been revised in two respects. First, the words "engaged in the operation of" have been changed to read "performs duties on board" in order to make it clear that, e.g., a steward who serves food on board a vessel is deemed to be a maritime employee even though his or her duties might not be considered by some to involve the actual operation of the vessel. Although the preamble to the temporary regulations so stated, some comments suggested that the regulation itself was not sufficiently clear on this point. Second, the word "moving" has been inserted to modify "vessels" in order to make it clear that employees whose duties are performed exclusively while a vessel is stationary in port, such as longshoremen, are not deemed to be employed in the maritime industry.

As under the temporary regulations, an employee who travels by water in order to perform duties on land is not an employee in the maritime industry unless such employee also performs duties on board a moving vessel.

Paragraph (d) of § 2530.200b–6, relating to years of participation for benefit accrual, has been revised in conformity with revisions to §§ 2530.204–1 *et seq.*, which deal with accrual.

Section 2530.200b–9. This section prescribes an alternative method—the elapsed time method—for determining service required to be taken into account for purposes of eligibility to participate, vesting or benefit accrual. The elapsed time method of crediting service was described in ERISA Technical Release (ETR) 2003, released on June 30, 1976, which provided seven conditions which a plan was required to satisfy to determine service on the basis of elapsed time. This section further clarifies those conditions and provides a framework for drafting those plan provisions necessary to implement an elapsed time method of crediting service.

After the issuance of the September 8, 1975 temporary regulations, the Department received a considerable number of comments with respect to the general method of determining service set forth in § 2530.200b–2 of those regulations. Several commenters stated that the general method set forth in that section was overly restrictive and that elapsed time

methods of crediting service, which were a common feature of plans in existence before the passage of the Act, should be permitted to continue. On March 2, 1976, after the publication of a notice in the FEDERAL REGISTER, a public hearing was held in order to discuss alternative methods of determining service, and at that hearing the use of elapsed time methods was discussed at length.

The comments and the statements at the hearing were generally to the effect that the elapsed time system is favorable to employees and less costly to administer because the plan is required only to keep records of the appropriate periods of time, without regard to the actual number of hours of service completed during such periods. Also, an elapsed time method allows an employer to integrate his employee benefit programs in the sense that an employee may be provided with a single reference point for determining his or her rights under those employee benefit programs which rely on length of service for determining rights. Finally, because elapsed time methods were common prior to ERISA, problems relating to employee uncertainty with respect to plan changes would be reduced by continuance of such methods.

Section 2530.200b–9 sets forth an additional alternative method of crediting service, an elapsed time method, under which service is determined generally with reference to the total period of time which elapses while the employee is employed (i.e., while the employment relationship exists) with the employer maintaining the plan, regardless of the actual number of hours of service completed during such period of time. Accordingly, the determination of service is generally based on the status of an individual as an employee. The specific rules relating to the operation of the elapsed time method are set forth in paragraphs (b) through (g) of § 2530.200b–9.

§§ 2530.201–1 and *2530.201–2*, relating to coverage, have not been changed.

Eligibility to participate (*§§ 2530.202–1 and –2*). Under section 202(a)(1)(A) of the Act and section 410(a)(1)(A) of the Code, a plan may generally require no more than one year of service for eligibility to participate in the plan. However, a plan which provides that after not more than three years of service a participant has a right to 100 percent of such participant's accrued benefit under the plan which is nonforfeitable at the time such benefit accrues may require completion of up to three years of service for eligibility to participate. Under section 202(a)(3)(A) of the Act and section 410(a)(3)(A) of the Code, a plan which requires that an employee must complete one or more years of service for eligibility to participate in the plan must use a 12-consecutive-month computation period to measure completion of a year of service. Even after an employee completes a year of service under such a plan, it may be necessary to measure completion of years of service for eligibility to participate if the plan provides for a "rule of parity" for purposes of eligibility—i.e., a rule under which an employee who has no vested right to an accrued benefit derived from employer contributions loses credit for years of service for eligibility credited before a series of consecutive one-year breaks in service, if the number of consecutive one-year breaks in service equals or exceeds the number of years of service credited to the employee before the one-year breaks in service. Section 2530.202–2 sets forth rules relating to the computation period to be used in measuring completion of a year of service for purposes of eligibility to participate.

The initial eligibility computation period must generally begin on an employee's employment commencement date, which is defined as the first day on which an employee is credited with an hour of service for the performance of duties. For eligibility computation periods used in measuring years of service after the initial eligibility computation period, a plan (including a plan which, under section 202(a)(1)(B)(i) of the Act and section 410(a)(1)(B)(i) of the Code, may require three years of service for eligibility to participate in the plan) may continue to use 12-consecutive-month periods beginning on anniversaries of an employee's employment commencement date, or may use plan years. If the plan provides that years of service for purposes of eligibility to participate will be determined on the basis of plan years after the initial eligibility computation period, the plan must credit an employee with a year of service for eligibility to participate for each plan year in which the employee is credited with 1000 hours of service, starting with the first plan year beginning after the first day of the initial eligibility computation period. Although this rule will result in double crediting of certain hours of service, it ensures that no employee will lose credit for hours of service with which the employee is entitled to be credited and is administratively simpler than other possible solutions to problems created by overlapping computation periods.

A plan which, under section 202(a)(1)(B)(i) of the Act and section 202(a)(1)(B)(i) of the Code, may require completion of up to three years of service for participation in the plan follows the same rules as a plan which may require only one year of service.

In applying the "rule of parity" for purposes of eligibility, a plan measures years of service for eligibility to participate against subsequent consecutive one-year breaks in service. Years of service before the consecutive one-year breaks in service must be measured on the basis of the same eligibility computation periods that are used for measuring years of service for eligibility to participate. Thus, a plan which, after the initial eligibility computation period, measures years of service for eligibility on the basis of 12-consecutive-month periods beginning on anniversaries of an employee's employment commencement date must use those eligibility computation periods for measuring pre-break service in applying the "rule of parity" for purposes of eligibility. Similarly, a plan which, after the initial eligibility computation period, measures years of service for eligibility on the basis of plan years must use the initial eligibility computation period and plan years thereafter in measuring pre-break service in applying the "rule of parity" for purposes of eligibility to participate.

Paragraph (e) of § 2530.202–2 sets forth an alternative eligibility computation period which is designed to eliminate administrative difficulties which some plans might experience in determining an employee's employment commencement date (or reemployment commencement date in the case of an employee who has incurred a one-year break in service). For example, where a plan obtains records from an employer indicating the number of hours of service (or other units of service) credited to an employee during a payroll period, but not indicating the specific days to which such hours are attributable, the plan may be unable to identify an employee's commencement date. The alternative set forth in paragraph (e) permits a plan to use as the initial eligibility computation period a period beginning no more than 31 days before an employee's employment commencement date (or reemployment commencement date)—for example, the first day of the first weekly or monthly payroll period for which an employee receives a paycheck—and ending on the anniversary of the last day of such payroll period. For eligibility computation periods after the initial one, if the plan does not shift to plan years after the initial eligibility computation period, the plan must use eligibility computation periods beginning on anniversaries of the first day of the initial eligibility computation period and ending on the anniversaries of the last day of the initial eligibility computation period. Thus, unless a shift to plan years is made, use of the alternative will repeatedly result in overlapping computation periods longer in duration than 12 consecutive months.

Under the alternative, an employee is deemed to have met the plan's service requirement for participation as of the anniversary of the first day of the eligibility computation period in which the employee completes the plan's service requirement, even though the eligibility computation period itself may extend beyond such anniversary. This rule ensures that an employee who has in fact completed 1000 hours of service in the 12-consecutive-month period beginning on the employee's employment commencement date or anniversary thereof will be admitted to participation on a date no later than the date specified under section 202(a)(4) of the Act and section 410(a)(4) of the Code.

Used in conjunction with the rule under § 2530.200b–2(c)(4) (which enables a plan to credit hours of service to computation periods on the basis of an employer's payroll periods), the alternative set forth in paragraph (e) allows a plan

to make use of simpler and more economical record-keeping systems.

Vesting (§§ 2530.203–1 and –2). Under section 203 of the Act and section 411(a) of the Code, years of service are used as units of measurement in determining the nonforfeitable (vested) percentage of a participant's accrued benefit derived from employer contributions. The term "year of service" for purposes of vesting is generally defined in section 203(b)(2)(A) of the Act and section 411(a)(5)(A) of the Code as a 12-consecutive-month period designated by the plan (and not prohibited under regulations prescribed by the Secretary) during which the participant has completed 1000 hours of service.

Section 2530.203–1, which has been revised for purposes of clarity, contains a general discussion of vesting.

In § 2530.203–2 the rules relating to the vesting computation period are set forth. Under these rules, a plan may designate any 12-consecutive-month period as the vesting computation period, including a separate 12-consecutive-month period for each employee—for example, the 12-consecutive-month period beginning on an employee's employment commencement date. A plan may not, however, designate a 12-consecutive-month period which would result in artificial postponement of vesting credit.

Paragraph (b) of § 2530.203–2, as it appeared in the temporary regulations, contained a special rule applicable in situations where an employee's eligibility computation period, under a plan requiring a year of service for eligibility to participate, overlaps two vesting computation periods. Under the special rule, if the employee completed 1000 hours of service in the eligibility computation period (and thus was admitted to participation) but failed to complete 1000 hours in either of the two vesting computation periods as a result of the distribution of the employee's hours of service between those computation periods, the plan would be required to credit the employee with a year of service for purposes of vesting on the basis of the 1000 hours completed during the eligibility computation period. Comments objected to the special rule on the ground that it would render plan administration more complex. The special rule has been deleted in the present version of § 2530.203–2 because, on balance, the administrative difficulties which it would create outweigh the advantages which plan participants might derive from it in the relatively restricted number of cases to which it would apply.

Paragraph (b) of § 2530.203–2 of the final regulations provides a cross reference to the rule on computation periods which must be used to determine when a participant acquires a nonforfeitable right to 100 percent of his or her accrued benefit under a plan described in section 202(a)(1)(B)(i) of the Act and section 410(a)(1)(B)(i) of the Code.

Paragraph (c) of § 2530.203–2 contains rules relating to plan amendments changing the vesting computation period. Under this paragraph, as a result of such an amendment, no employee's vested percentage of the accrued benefit derived from employer contributions may be less on any date after the change than the vested percentage would be in the absence of the change. Paragraph (c) also sets forth a method for changing a plan's vesting computation period which will be deemed to comply with the general requirement just stated. Under this method, the first vesting computation period under the amendment must begin before the end of the last vesting computation period under the plan as in effect before the amendment, and the plan must credit an employee who has 1000 hours in both of these vesting computation periods with two years of service. In the temporary regulations this method was prescribed as the exclusive method for changing the vesting computation period. In response to comments calling for a greater degree of flexibility in this area, however, the present paragraph (c) permits other methods which meet the requirement stated therein—for example a method under which, as of any date after an amendment changing the vesting computation period, each employee is credited with the greater of the vested percentage of the accrued benefit derived from employer contributions determined under the plan before the amendment, or such vested percentage determined under the plan as amended.

Section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code provide that in the case of a participant who has no vested right to an accrued benefit derived from employer contributions, years of service before a one-year break in service are not required to be taken into account for purposes of vesting if the number of consecutive one-year breaks in service equals or exceeds the aggregate number of years of service before such break. Paragraph (d) of § 2530.203–2 provides that in determining the aggregate number of years of service before a break in service for purposes of section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code, the vesting computation period must be used, just as under § 2530.200b–4(b)(2), the vesting computation period must be used in determining one year breaks in service to be matched against the pre-break years of service.

Benefit accrual—general (§§2530.204–1, –2, –3 and 4). Section 204 of the Act and section 411(b) of the Code contain minimum standards relating to benefit accrual which an employee pension benefit plan subject to Part 2 of Title I of the Act must meet. In particular, section 204(b)(1) of the Act and section 411(b)(1) of the Code contain certain requirements which a defined benefit pension plan must satisfy. These requirements are in part applied on the basis of an employee's period of service under a plan. Section 204(b)(3) of the Act and section 411(b)(3) of the Code set forth rules relating to the service which must be taken into account in determining an employee's period of service on the basis of which the defined benefit plan accrual rules set forth in section 204(b)(1) of the Act and section 411(b)(1) of the Code must be applied. Under section 204(b)(3)(A) of the Act and section 411(b)(3)(A) of the Code, the Secretary of Labor is authorized to prescribe regulations providing for the calculation, on a reasonable and consistent basis, of an employee's period of service for purposes of applying the defined benefit plan accrual rules.

Section 204(b)(3)(B) and (C) of the Act and section 411(b)(3)(B) and (C) of the Code contain a specific rule relating to the calculation of an employee's period of service for purposes of benefit accrual. Under those sections, an employee must be given at least a partial accrual credit, determined on the basis of a pro-rata portion of full accrual, if the employee is credited with 1000 hours of service (or other units of service under an equivalency permitted under § 2530.200b–3 (d), (e) or (f)) in a computation period.

Regulations relating to the calculation of an employee's period of service for purposes of accrual are set forth in §§ 2530.204–1, –2, and –3.

Section 2530.204–1 sets forth certain rules relating to the calculation of an employee's period of service for purposes of benefit accrual. Under section 204(b)(1) of the Act and section 411(b)(1) of the Code, the period of service on the basis of which the defined benefit plan accrual rules must be applied is generally expressed in terms of "years of participation." Section 2530.204–2 sets forth rules relating to the computation periods to be used for measuring years of participation ("accrual computation periods"). Accrual computation periods are also used for measuring completion of 1000 hours of service in determining whether an employee is entitled to at least a partial credit for accrual under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code. A defined benefit plan, however, is not required to calculate an employee's period of service for purposes of accrual only on the basis of years of participation; § 2530.204–3 sets forth rules relating to the calculation of an employee's period of service for purposes of accrual on a basis other than computation periods.

The final section relating to benefit accrual, § 2530.204–4, prescribes the computation period which a plan must use in measuring years of service if the plan provides that accrual of benefits does not become effective until an employee has two continuous years of service, pursuant to section 204(b)(1)(E) of the Act and section 411(b)(1)(E) of the Code.

§ 2530.204–1. This section sets forth general rules relating to the calculation of an employee's period of service for purposes of benefit accrual. In general, all service beginning on the earliest date an employee is a participant in a plan must be taken into account, with the exception of service which is included in a period of service which is not required to be taken into account under section 202(b) of the Act and section 410(a)(5) of the Code, and service which may be disregarded under section 204(b)(3)(C)

of the Act and section 411(b)(3)(C) of the Code. The foregoing rule reflects the language of section 204(b)(3) of the Act and section 411(b)(3) of the Code, although the rule itself was not explicitly stated in the temporary regulations. In addition, pursuant to the Secretary's authority under section 204(b)(3)(A) of the Act to determine the period of service which must be taken into account for purposes of benefit accrual, paragraph (b) of § 2530.204–1 provides that in calculating an employee's period of service for purposes of benefit accrual, a defined benefit plan is not required to take into account service before the conclusion of a series of consecutive one-year breaks in service which permits a plan to disregard prior service under section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code—i.e., service before the date on which application of the "rule of parity" for purposes of vesting permits the plan to disregard prior service for purposes of vesting. When an employee becomes subject to the "rule of parity" for purposes of eligibility, the employee's pre-break service is not required to be taken into account for purposes of accrual, since under section 204(b)(3) of the Act and section 411(b)(3) of the Code, service which may be disregarded under section 202(b) of the Act and section 410(a)(5) of Code is not required to be taken into account for purposes of accrual. In a relatively restricted number of instances, however, application of the "rule of parity" for purposes of vesting will occur before application of the "rule of parity" for purposes of accrual, as a result of the fact that certain years of service may be disregarded for vesting purposes although they must be taken into account for purposes of eligibility. In order to enable plans to operate their service crediting systems on a unified basis and thus reduce administrative costs, paragraph (b) provides that as soon as an employee becomes subject to the "rule of parity" for purposes of vesting, service credited for benefit accrual before the parity break for purposes of vesting may be disregarded.

§ 2530.204–2. This section sets forth rules relating to accrual computation periods for plans which use them. Paragraph (a) provides that a plan may designate any 12-consecutive-month period as the accrual computation period, and may designate an individual accrual computation period for each participant. Paragraph (b) of § 2530.204–2 sets forth rules relating to participation before the effective date of Part 2 of Title I of the Act, which must be taken into account in applying the defined benefit plan accrual rules set forth in section 204(b)(1) of the Act and section 411(b)(1) of the Code.

Paragraph (c) of § 2530.204–2 sets forth rules relating to the crediting of partial years of participation and the application of the minimum service requirement of 1000 hours of service permitted under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code. Although not explicitly stated in the temporary regulations, these rules are consistent with the express provisions of the Act and the Code. In applying a 1000 hours minimum service requirement, a plan must use the accrual computation period designated under paragraph (a) of § 2530.204–2.

Paragraph (c) of § 2530.204–2 as it appeared in the temporary regulations also provided for measurement of service for accrual on the basis of partial accrual computation periods in situations where an employee first becomes a participant, or resumes active participation following a break in service, on a day other than the first day of an accrual computation period. Under paragraph (c) of the temporary regulations, a plan with a minimum hours of service requirement for partial credit for an accrual computation period, as permitted under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code, was required to prorate the minimum hours requirement on the basis of the ratio of the period from the date an employee became a participant (or resumed active participation following a break in service) to the end of the accrual computation period, to a full year. In the absence of such a rule an employee who, e.g., became a participant shortly before the end of an accrual computation period might be unable to meet the plan's 1000 hours of service requirement and consequently would fail to receive partial credit for service performed before the end of the accrual computation period. A plan with semi-annual participation entry dates, moreover, could be structured so as to ensure that few employees would receive accrual credit until the next accrual computation period following the employee's entry into participation.

Comments on the temporary regulation indicated that the requirement of a partial accrual computation period posed unnecessary and burdensome administrative problems for plans. Accordingly, the requirement of a partial accrual computation period has not been retained in the final version of Part 2530, except in the case of a change in the accrual computation period. However, to avoid the problems at which the partial accrual computation period was aimed, paragraph (c) contains a rule requiring that, in applying a minimum service requirement for benefit accrual in an accrual computation period which includes the date on which an employee becomes a participant in a plan, or resumes active participation after a break in service, the plan must take into account all hours of service which must be credited to the employee in the entire accrual computation period, not merely those which are credited during the portion of the computation period for which the employee is an active participant. If the employee is credited with 1000 or more hours of service in such a computation period, the employee must be credited with at least a partial year of participation on a pro-rata basis for the period after the employee begins (or resumes) participation.

Paragraph (d) of section 2530.204–2 prohibits proration of benefit accruals under section 204(b)(3)(B) of the Act and section 411(b)(3)(B) of the Code under plans which define benefits on a basis which has the effect of prorating benefits to reflect less than full-time employment, in order to prevent double proration of benefit accruals. In response to comments, paragraph (d) has been revised for purposes of clarity.

Paragraph (e), which prescribes a method for amending a plan to change the accrual computation period, has also been revised for purposes of clarity. Paragraph (e) makes use of a partial accrual computation period, with a prorated minimum service requirement, to avoid inequities to participants as a result of the change of computation periods.

§ 2530.204–3. A defined benefit plan is not required to determine an employee's service for purposes of benefit accrual on the basis of accrual computation periods. Section 2530.204–3, which has been revised for purposes of clarity, sets forth rules relating to plans which do not use accrual computation periods.

Under § 2530.204–3, if a plan does not use computation periods to determine an employee's period of service for purposes of benefit accrual, it must be possible to prove that the plan's provisions relating to benefit accrual meet at least one of the three benefit accrual rules of section 204(b)(1) of the Act and section 411(b)(1) of the Code under all circumstances. Further, such a plan may not disregard service under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code, since those sections contemplate determination of the number of hours of service credited to an employee on a computation-period-by-computation-period basis.

Some comments on the temporary regulations indicated that § 2530.204–3 gave the impression that a plan which does not use computation periods as a basis for determining an employee's period of service for purposes of benefit accrual may not provide for any degree of "back-loading" of benefit accruals. Such a plan may "back-load" benefit accruals to the extent permitted under the three tests against "back-loading" set forth in section 204(b)(1) of the Act and section 411(b)(1) of the Code, provided that it is possible to prove that the back-loading is not in excess of the amount allowed by those tests.

§ 2530.204–4. Section 204(b)(1)(E) of the Act and section 411(b)(1)(E) of the Code permit a plan to provide that accrual of benefits under a plan does not become effective until the employee has two continuous years of service. Under § 2530.204–4, in measuring years of service for purposes of section 204(b)(1)(E) of the Act and section 411(b)(1)(E) of the Code, a plan must use eligibility computation periods designated under § 2530.202–2(b), relating to eligibility computation periods after the initial eligibility computation period, and, if applicable, § 2530.202–2(a).

Section 2530.210. § 2530.210 of the regulations has been revised for purposes of

clarity. Generally, the operational rules contained in § 2530.210 of the temporary regulations have been retained. The revised format makes explicit certain principles that were implicit in the text and diagrams of the temporary regulations. The final version of § 2530.210 does contain some minor amplifications, which are noted in the following sectional analysis.

Paragraph (a) of the regulations sets forth the general statutory provisions relating to the crediting of service. In general, section 202(a) of the Act requires that all service with the employer or employers maintaining the plan be taken into account for purposes of determining eligibility to participate in the plan. Similarly, section 203(b)(1) of the Act requires generally that all service with the employer or employers maintaining the plan shall be counted toward advancement on the vesting schedule, with certain exceptions such as for service when the employer did not maintain the plan or a predecessor plan. In contrast, section 204(b) of the Act requires only that periods of actual participation in the plan be taken into account for purposes of benefit accrual. Section 210 provides rules applicable to section 202, 203 and 204 for determining who is an "employer or employers maintaining the plan" and, accordingly, what service is required to be taken into account in the case of a plan maintained by more than one employer.

The general operational rule contained in paragraph (b) of the regulations is that a multiple employer plan (e.g., a multiemployer plan) takes service into account in accordance with the rules set forth in paragraph (c), a plan maintained by members of a controlled group of corporations takes service into account in accordance with paragraph (d) and a plan maintained by trades or businesses under common control takes service into account in accordance with paragraph (e). Note throughout that every mention of multiple employer plans includes multiemployer plans. See § 2530.210(c)(3). Special break in service rules for such plans are set forth in paragraph (f). Paragraph (g) applies the rule of parity to such plans.

The primary clarification and amplification of the temporary regulations is with respect to the rules relating to multiple employer plans. In the temporary regulations, paragraph (b) of § 2530.210 provided that a multiple employer plan shall be treated as if all maintaining employers constituted a single employer so long as an employee maintains "continuity" of either employment or plan coverage. Paragraph (c) of these regulations replaces paragraph (b) of the temporary regulations. Paragraph (c) provides that a multiple employer plan shall be treated as if all maintaining employers constitute a single employer so long as an employee is employed in either covered service or contiguous noncovered service. The "continuity" terminology has been deleted because comments indicated that it is misleading and inappropriate, and the terms "covered service" and "contiguous noncovered service" have been substituted. However, this change is primarily for purposes of clarity; generally, the final regulations require that a multiple employer plan take the same service into account as was required to be taken into account under the temporary regulations.

"Covered service" is service within a job classification or class of employees covered under the multiple employer plan. Neither the temporary regulations nor the final regulations require that covered service be continuous, with no interruptions, as the language of the temporary regulations led some commenters to believe. An employee may perform hours of service which are credited as covered service with any number of employers and at any number of different times during a computation period. Employment with each employer may be terminated with a quit, discharge or retirement. In other words, the fact that an employee has periods of noncovered service during a computation period has no effect on the plans' obligation to credit all the employee's covered service during such period.

"Contiguous noncovered service" is noncovered service immediately preceding or following covered service, with no intervening quit, discharge or retirement. The final regulations amplify the rule contained in the temporary regulations in the following respect. Under the temporary regulations, continuity of employment led to the crediting of service, but the term "continuity of employment" was not defined. The final regulations adopt the term "contiguous noncovered service" to indicate that noncovered service so described touches a prior or subsequent period of covered service in the sense that an employee has not separated from service through quit, discharge, or retirement between the periods of covered and noncovered service. An employee is entitled to have contiguous noncovered service taken into account. Stated another way, if a period of time includes covered and noncovered service, but no quit, discharge, or retirement, all the service within that period of time must be taken into account. This is so because the noncovered service is contiguous.

With respect to noncovered service, the operation of the final regulations and the temporary regulations would lead to the same results; however, the final regulations clarify an ambiguity contained in the temporary regulations. Separation from service as a result of quit, discharge or retirement affects the status of noncovered service under the final regulations. The temporary regulations did not state that quit, discharge or retirement were the specific events that would interrupt continuity of employment. Therefore, the temporary regulations might be interpreted to mean that continuity of employment would not be interrupted by, for example, a quit, if the employee reentered service before incurring a break in service. It should be noted that a quit, discharge or retirement must be bona fide. A pro forma discharge, for example, may constitute a violation of section 510 of the Act, which forbids certain actions if they are taken for the purpose of interfering with the attainment of rights under the plan and the Act.

An additional clarification with respect to the multiple employer plan rules is the inclusion of a definition of "multiple employer plan." A multiple employer plan includes a multiemployer plan as defined in section 3(37) of the Act and section 414(f) of the Code or a multiple employer plan within the meaning of section 413 (b) and (c) of the Code and the regulations issued thereunder. However, the definition contains an exception in the case of plans maintained solely by members of the same controlled group of corporations or by trades or businesses which are under the common control of one person or group of persons. Such a plan is required to apply the controlled group rules and the common control rules respectively. The multiple employer plan definition is included in response to suggestions by commenters.

To summarize the operation of the rules with respect to multiple employer plans, the rules require credit for participation, vesting and benefit accrual purposes, when a participant is employed in service covered under the multiple employer plan. When an employee moves from noncovered service to covered service and if the noncovered service is contiguous, past service must be credited for participation and vesting purposes but not for benefit accrual purposes since section 204(b)(3) requires that only service from the first date of participation in the plan must be taken into account. Similarly, when an employee moves from covered service to contiguous noncovered service for the same employer, he or she continues to receive credit toward vesting in the benefits accrued while a participant.

The break in service rule contained in paragraph (f)(1) of the regulations implements the statutory language of section 210(a)(2) which authorizes the Secretary to prescribe regulations with respect to breaks in service. Commenters indicated that the "lack of continuity" concept, without an explicit statutory referent, caused confusion. Paragraph (f)(1) of the final regulations is in response to those comments and provides that noncontiguous noncovered service results in service which may be disregarded for break in service purposes.

For example, under the rule in paragraph (f)(1) of the regulations, noncontiguous noncovered service may be disregarded by a multiple employer plan for vesting purposes. Such service may occur when an employee moves from covered service with one employer to noncovered service with a second employer, even if both employers maintain the multiple employer plan. In that case, the plan is not required to continue to credit the employee's service for vesting purposes so long as he remains in noncovered employment with the second employer. It should be noted that the same result occurs even if the employee moves to noncontiguous noncovered service with the same employer maintaining the plan.

For example, an employee employed in covered service quits and then six months later is reemployed by the same employer but in a job classification which is not covered under the plan.

Paragraph (d) of the final regulations has not been revised. Paragraph (d) (corresponding to paragraph (c) of the temporary regulations) provides that all employees of all corporations which are members of a controlled group of corporations (within the meaning of section 1563(a) of the Code, determined without regard to section 1563 (a) (4) and (e) (3) (C)) shall be treated as employed by a single employer.

Paragraph (e) (formerly paragraph (d) of the temporary regulations) sets forth the rules with respect to trades or businesses under common control and provides the same rules as set forth in the former paragraph (d). Paragraph (e) provides that, under regulations prescribed by the Secretary of the Treasury, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer. This rule is subject to the same principles and analysis as controlled groups of corporations.

A new paragraph (f) has been added to the final regulations in order to set forth the special rule for break in service for multiple employer plans and to clarify the operation of the substantive rules contained in paragraphs (c) through (e) of the final regulations. As previously stated, paragraph (f) (1) sets forth the rule in the case of noncontiguous noncovered service under a multiple employer plan. The purpose of subparagraph (f) (2) is to clarify the rule against double attribution contained in paragraph (a) of the temporary regulations, which provided (1) that, in the case of a multiemployer plan, the plan is not required to apply the controlled group or common control attribution rules to service not otherwise attributable to the multiple employer plan through the operation of the multiple employer plan rule, and (2) service under the multiemployer plan need not be attributed to controlled group or common control plans through the operation of the multiemployer plan rules. Paragraph (f) (2) states that a controlled group or common control plan is required to apply only the rules applicable to such plan. The general principle contained in paragraph (f) (2) is that each plan maintained by such an employer is required to credit the statutory entitlements of an employee only under the rules in paragraph (c), (d) or (e) applicable to that plan. This is true even though the employee may have service with any number of other plans to which different rules apply. Indeed, a plan uses the rules applicable to it even though the employee has service with another plan or plans maintained by the same employer, but to which different rules apply.

A new paragraph (g) is contained in the final regulations in order to clarify the operation of the "rule of parity" with respect to plans maintained by more than one employer. As previously stated, an employer may maintain more than one plan, so that service may be required to be taken into account under various rules. Consequently, the operation of the rules may result in an employee incurring a break in service under one plan while being credited with service under another plan (and under the operation of different rules).

The operation of the rule of parity with respect to a multiple employer plan is illustrated in the following example. In a multiple employer plan of which employers X and Y are the only members, an employee earns 4 years of credit for covered service with X, then leaves X and immediately thereafter enters upon 4 years of noncovered service with Y. At the end of the 4 years with Y, the employee has incurred four consecutive one-year breaks in service with the multiple employer plan, so that at that moment prior service with X may be disregarded. If the employee then enters immediately into service with Y that is covered by the multiple employer plan, the four years of noncovered service with Y must be counted for eligibility and vesting purposes. However, there is no restoration of the 4 years of service with X.

Several diagrams are included in the final regulations. These diagrams were adapted from the diagrams set forth in the temporary regulations. To assist in the understanding of the regulations, the diagrams are no longer consolidated in a single paragraph but are used to illustrate the operational rules of the paragraphs in which they occur. Consequently, it has been necessary to simplify certain diagrams in order to limit their operation to the rule under consideration. However, paragraph (h) contains a comprehensive diagram which illustrates several rules.

Accordingly, 29 CFR Part 2530 is revised to read as follows:

Subpart A—Scope and General Provisions

Subpart B—Participation, Vesting and Benefit Accrual

Subpart C—Form and Payment of Benefits

Subpart D—Plan Administration as Related to Benefits

AUTHORITY: Secs. 201, 202, 203, 204, 210, 505, 1011, 1012, 1014 and 1015, Pub. L. 93–406, 88 Stat. 852–862, 866–867, 894, 898–913, 924–929 (29 U.S.C. 1051–4, 1060, 1135, 26 U.S.C. 410, 411, 413, 414); Secretary of Labor's Order No. 13–76.

Subpart A—Scope and General Provisions

§ 2530.200a Scope.

§ 2530.200a–1 Relationship of the Act and Internal Revenue Code of 1954.

(a) Part 2 of Title I of the Employee Retirement Income Security Act of 1974 (hereinafter referred to as "the Act") contains minimum standards that a plan which is an employee pension benefit plan within the meaning of section 3(2) of the Act and which is covered under Part 2 must satisfy. (For a general explanation of the coverage of Part 2, see § 2530.201–1.) Substantially identical requirements are imposed by Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code of 1954 (hereinafter referred to as "the Code") for plans seeking qualification for certain tax benefits under the Code. In general, the Code provisions apply to "qualified" pension, profit-sharing, and stock bonus plans described in section 401(a) of the Code, annuity plans described in section 403(a) of the Code and bond purchase plans described in section 405(a) of the Code. The standards contained in Title I of the Act generally apply to both "non-qualified" and "qualified" employee pension benefit plans. The standards contained in the Act, and the related Code provisions, are "minimum" standards. In general, more liberal plan provisions (in terms of the benefit to be derived by the employee) are not prohibited.

(b) For a definiton of the term "employee pension benefit plan", see section 3(2) of the Act and § 2510.3–2.

(c) For a statement of the coverage of Part 2 of Title I of the Act, see sections 4 and 201 of the Act and §§ 2510.3–2, 2510.3–3, 2530.201–1 and 2530.201–2.

§ 2530.200a–2 Treasury regulations for purposes of the Act.

Regulations prescribed by the Secretary of the Treasury or his delegate under sections 410 and 411 of the Code (relating to minimum standards for par-

ticipation and vesting) shall apply for purposes of sections 202 through 204 of the Act. Thus, except for those provisions (such as the definition of an hour of service or a year of service) for which authority to prescribe regulations is specifically delegated to the Secretary of Labor, regulations prescribed by the Secretary of the Treasury shall also be used to implement the related provisions contained in the Act. Those regulations specify the credit that must be given to an employee for years of service and years of participation completed by the employee. The allocation of regulatory jurisdiction between the Secretary of the Treasury or his delegate and the Secretary of Labor is governed by Titles I through III of the Act. *See* section 3002 of the Act (88 Stat. 996).

§ 2530.200a–3 Labor regulations for purposes of the Internal Revenue Code of 1954.

The Secretary of Labor is specifically authorized to prescribe certain regulations (generally relating to hour of service, year of service, break in service, year of participation and special rules for seasonal and maritime industries) applicable to both Title I of the Act and sections 410 and 411 of the Code. These regulations are contained in this Subpart (A) and Subpart (B) of this part (2530) and must be integrated with regulations prescribed by the Secretary of the Treasury or his delegate under section 410 of the Code (relating to minimum participation standards), 411(a) of the Code (relating to minimum vesting standards) and 411(b) of the Code (relating to benefit accrual requirements). The allocation of regulatory jurisdiction between the Secretary of Labor and the Secretary of the Treasury or his delegate is governed by Titles I through III of the Act. *See* section 3002 of the Act (88 Stat. 996).

§ 2530.200b–1 Computation periods.

(a) *General.* Under sections 202, 203 and 204 of the Act and sections 410 and 411 of the Code, an employee's statutory entitlements with regard to participation, vesting and benefit accrual are generally determined by reference to years of service and years of participation completed by the employee and one-year breaks in service incurred by the employee. The units used for determining an employee's credit towards statutory participation, vesting and benefit accrual entitlements are in turn defined in terms of the number of hours of service credited to the employee during a specified period—in general, a twelve-consecutive-month period—referred to herein as a "computation period". A plan must designate eligibility computation periods pursuant to § 2530.202–2 and vesting computation periods pursuant to § 2530.203–2, and, under certain circumstances, a defined benefit plan must designate accrual computation periods pursuant to § 2530.204–2. An employee who is credited with 1000 hours of service during an eligibility computation period must generally be credited with a year of service for purposes of section 202 of the Act and section 410 of the Code (relating to minimum participation standards). An employee who is credited with 1000 hours of service during a vesting computation period must generally be credited with a year of service for purposes of section 203 of the Act and 411(a) of the Code (relating to minimum vesting standards). An employee who completes 1000 hours of service during an accrual computation period must, under certain circumstances, be credited with at least a partial year of participation for purposes of section 204 of the Act and section 411(b) of the Code (relating to benefit accrual requirements). With respect to benefit accrual, however, the plan may not be required to credit an employee with a full year of participation and, therefore, full accrual for such year of participation unless the employee is credited with the number of hours of service or other permissible units of credit prescribed under the plan for crediting of a full year of participation (*see* § 2530.204–2 (c) and (d)). It should be noted that under some of the equivalencies which a plan may use under § 2530.200b–3 to determine the number of units of service to be credited to an employee in a computation period, an employee must be credited with a year of service or partial year of participation if the employee is credited with a number of units of service which is less than 1000 in a computation period. *See also* § 2530.200b–9, relating to elapsed time.

(b) *Rules generally applicable to computation periods.* In general, employment at the beginning or the end of an applicable computation period or on any particular date during the computation period is not determinative of whether the employee is credited with a year of service or a partial year of participation, or incurs a break in service, for the computation period. Rather, these determinations generally must be made solely with reference to the number of hours (or other units of service) which are credited to the employee during the applicable computation period. For example, an employee who is credited with 1000 hours of service during any portion of a vesting computation period must be credited with a year of service for that computation period regardless of whether the employee is employed by the employer on the first or the last day of the computation period. It should be noted, however, that in certain circumstances, a plan may provide that certain consequences follow from an employee's failure to be employed on a particular date. For example, under section 202(a)(4) of the Act and section 410(a)(4) of the Code, a plan may provide that an individual otherwise entitled to commence participation in the plan on a specified date does not commence participation on that date if he or she was separated from the service before that date. Similarly, under section 204(b)(1) of the Act and section 411(b)(1) of the Code, a plan which is not a defined benefit plan is not subject to section 204(b)(1) and (b)(3) of the Act and section 411(b)(1) and (b)(3) of the Code. Such a plan, therefore, may provide that an individual who has been a participant in the plan, but who has separated from service before the date on which the employer's contributions to the plan or forfeitures are allocated among participants' accounts or before the last day of the vesting computation period, does not share in the allocation of such contributions or forfeitures even though the individual is credited with 1000 or more hours of service for the applicable vesting computation period. Under certain circumstances, however, such a plan provision may result in discrimination prohibited under section 401(a)(4) of the Code. *See* Revenue Ruling 76–250, I.R.B. 1976–27.

§ 2530.200b–2 Hour of service.

(a) *General rule.* An hour of service which must, as a minimum, be counted for the purposes of determining a year of service, a year of participation for benefit accrual, a break in service and employment commencement date (or reemployment commencement date) under sections 202, 203 and 204 of the Act and sections 410 and 411 of the Code, is an hour of service as defined in paragraphs (a)(1), (2) and (3) of this section. The employer may round up hours at the end of a computation period or more frequently.

(1) An hour of service is each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer during the applicable computation period.

(2) An hour of service is each hour for which an employee is paid, or entitled to payment, by the employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. Notwithstanding the preceding sentence,

(i) No more than 501 hours of service are required to be credited under this paragraph (a)(2) to an employee on account of any single continuous period during which the employee performs no duties (whether or not such period occurs in a single computation period);

(ii) An hour for which an employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workmen's compensation, or unemployment compensation or disability insurance laws; and

(iii) Hours of service are not required to be credited for a payment which solely reimburses an employee for medical or medically related expenses incurred by the employee.

For purposes of this paragraph (a)(2), a payment shall be deemed to be made by or due from an employer regardless of whether such payment is made by or due from the employer directly, or indirectly

through, among others, a trust fund, or insurer, to which the employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer or other entity are for the benefit of particular employees or are on behalf of a group of employees in the aggregate.

(3) An hour of service is each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the employer. The same hours of service shall not be credited both under paragraph (a)(1) or paragraph (a)(2), as the case may be, and under this paragraph (a)(3). Thus, for example, an employee who receives a back pay award following a determination that he or she was paid at an unlawful rate for hours of service previously credited will not be entitled to additional credit for the same hours of service. Crediting of hours of service for back pay awarded or agreed to with respect to periods described in paragraph (a)(2) shall be subject to the limitations set forth in that paragraph. For example, no more than 501 hours of service are required to be credited for payments of back pay, to the extent that such back pay is agreed to or awarded for a period of time during which an employee did not or would not have performed duties.

(b) *Special rule for determining hours of service for reasons other than the performance of duties.* In the case of a payment which is made or due on account of a period during which an employee performs no duties, and which results in the crediting of hours of service under paragraph (a)(2) of this section, or in the case of an award or agreement for back pay, to the extent that such award or agreement is made with respect to a period described in paragraph (a)(2) of this section, the number of hours of service to be credited shall be determined as follows:

(1) *Payments calculated on the basis of units of time.* (i) Except as provided in paragraph (b)(3) of this section, in the case of a payment made or due which is calculated on the basis of units of time, such as hours, days, weeks or months, the number of hours of service to be credited shall be the number of regularly scheduled working hours included in the units of time on the basis of which the payment is calculated. For purposes of the preceding sentence, in the case of an employee without a regular work schedule, a plan may provide for the calculation of the number of hours to be credited on the basis of a 40-hour workweek or an 8-hour workday, or may provide for such calculation on any reasonable basis which reflects the average hours worked by the employee, or by other employees in the same job classification, over a representative period of time, provided that the basis so used is consistently applied with respect to all employees within the same job classifications, reasonably defined. Thus, for example, a plan may not use a 40-hour workweek as a basis for calculating the number of hours of service to be credited for periods of paid absences for one employee while using an average based on hours worked over a representative period of time as a basis for such calculation for another, similarly situated employee.

(ii) *Examples.* The following examples illustrate the rules in paragraph (b)(1) of this section without regard to paragraphs (b)(2) and (3).

(A) Employee A was paid for 6 hours of sick leave at his normal hourly rate. The payment was therefore calculated on the basis of units of time (hours). A must, therefore, be credited with 6 hours of service for the 6 hours of sick leave.

(B) Employee B was paid his normal weekly salary for 2 weeks of vacation. The payment was therefore calculated on the basis of units of time (weeks). B is scheduled to work 37½ hours per week (although from time to time working overtime). B must, therefore, be credited with 75 hours of service for the vacation (37½ hours per week multiplied by 2 weeks).

(C) Employee C spent 3 weeks on a paid vacation. C's salary is established at an annual rate but is paid on a bi-weekly basis. The amount of salary payments attributable to be paid vacation was calculated on the basis of units of time (weeks). C has no regular work schedule but works at least 50 hours per week. The plan provides for the calculation of hours of service to be credited to employees in C's situation for periods of paid absences on the basis of a 40-hour workweek. C must, therefore, be credited with 120 hours of service for the vacation (3 weeks multiplied by 40 hours per week).

(D) Employee D spent 2 weeks on vacation, for which he was paid $150. Although D has no regular work schedule, the $150 payment was established on the assumption that an employee in D's position works an average of 30 hours per week at a rate of $2.50 per hour. The payment of $150 was therefore calculated on the basis of units of time (weeks). The plan provides for the calculation of hours of service to be credited to employees in D's situation for periods of paid absences on the basis of the average number of hours worked by an employee over a period of 6 months. D's employer's records show that D worked an average of 28 hours per week for a 6-month period. D must, therefore, be credited with 56 hours of service for the vacation (28 hours per week multiplied by 2 weeks).

(E) Employee E is regularly scheduled to work a 40-hour week. During a computation period E is incapacitated as a result of injury for a period of 11 weeks. Under the sick leave policy of E's employer E is paid his normal weekly salary for the first 8 weeks of his incapacity. After 8 weeks the employer ceases to pay E's normal salary but, under a disability insurance program maintained by the employer, E receives payments equal to 65% of his normal weekly salary for the remaining 3 weeks during which E is incapacitated. For the period during which he is incapacitated, therefore, E receives credit for 440 hours of service (11 weeks multiplied by 40 hours per week) regardless of the fact that payments to E for the last 3 weeks of the period during which he was incapacitated were made in amounts less than E's normal compensation.

(2) *Payments not calculated on the basis of units of time.* (i) Except as provided in paragraph (b)(3) of this section, in the case of a payment made or due, which is not calculated on the basis of units of time, the number of hours of service to be credited shall be equal to the amount of the payment divided by the employee's most recent hourly rate of compensation (as determined under paragraph (b)(2)(ii) of this section) before the period during which no duties are performed.

(ii) For purposes of paragraph (b)(2)(i) of this section an employee's hourly rate of compensation shall be determined as follows:

(A) In the case of an employee whose compensation is determined on the basis of an hourly rate, such hourly rate shall be the employee's most recent hourly rate of compensation.

(B) In the case of an employee whose compensation is determined on the basis of a fixed rate for specified periods of time (other than hours) such as days, weeks or months, the employee's hourly rate of compensation shall be the employee's most recent rate of compensation for a specified period of time (other than an hour), divided by the number of hours regularly scheduled for the performance of duties during such period of time. For purposes of the preceding sentence, in the case of an employee without a regular work schedule, the plan may provide for the calculation of the employee's hourly rate of compensation on the basis of a 40-hour workweek, an 8-hour workday, or may provide for such calculation on any reasonable basis which reflects the average hours worked by the employee over a representative period of time, provided that the basis so used is consistently applied with respect to all employees within the same job classifications, reasonably defined.

(C) In the case of an employee whose compensation is not determined on the basis of a fixed rate for specified periods of time, the employee's hourly rate of compensation shall be the lowest hourly rate of compensation paid to employees in the same job classification as that of the employee or, if no employees in the same job classification have an hourly rate, the minimum wage as established from time to time under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(iii) *Examples.* The following examples illustrate the rules in paragraph (b)(2) of this section without regard to paragraphs (b)(1) and (3).

(A) As a result of an injury, an employee is incapacitated for 5 weeks. A lump sum payment of $500 is made to the employee with respect to the injury under a disability insurance plan maintained by the employee's employer. At the time of the injury, the employee's rate of pay was $3.00 per hour. The employee must, therefore, be credited with

167 hours of service ($500 divided by $3.00 per hour).

(B) Same facts as in Example (A), above, except that at the time of the injury, the employee's rate of pay was $160 per week and the employee has a regular work schedule of 40 hours per week. The employee's hourly rate of compensation is, therefore, $4.00 per hour ($160 per week divided by 40 hours per week) and the employee must be credited with 125 hours of service for the period of absence ($500 divided by $4.00 per hour).

(C) An employee is paid at an hourly rate of $3.00 per hour and works a regular schedule of 40 hours per week. The employee is disabled for 26 weeks during a computation period. For the first 12 weeks of disability, the employee is paid his normal weekly earnings of $120 per week by the employer. Thereupon, a lump-sum disability payment of $1000 is made to the employee under a disability insurance plan maintained by the employer. Under paragraph (a) (3) (i) of this section, the employee is credited with 501 hours of service for the period of disability (lesser of 501 hours—the maximum number of hours required to be credited for a period of absence—or the sum of 12 weeks multiplied by 40 hours per week plus $1000 divided by $3.00 per hour).

(3) *Rule against double credit.* (i) Notwithstanding paragraphs (b) (1) and (2) of this section, an employee is not required to be credited on account of a period during which no duties are performed with a number of hours of service which is greater than the number of hours regularly scheduled for the performance of duties during such period. For purposes of applying the preceding sentence in the case of an employee without a regular work schedule, a plan may provide for the calculation of the number of hours of service to be credited to the employee for a period during which no duties are performed on the basis of a 40-hour workweek or an 8-hour workday, or may provide for such calculation on any reasonable basis which reflects the average hours worked by the employee, or by other employees in the same job classification, over a representative period of time, provided that the basis so used is consistently applied with respect to all employees within the same job classifications, reasonably defined.

(ii) *Examples.* (A) Employee A has a regular 40-hour workweek. Each year Employee A is entitled to pay for a two-week vacation, in addition to receiving normal wages for all hours worked, regardless of whether A actually takes a vacation and regardless of the duration of his vacation. The vacation payments are, therefore, calculated on the basis of units of time (weeks). In computation period I, A takes no vacation but receives vacation pay. A is entitled to no credit for hours of service for the vacation payment made in computation period I because the payment was not made on account of a period during which no duties were performed. In computation period II, A takes a vacation of one week in duration, although receiving pay for a two-week vacation. A is entitled to be credited with 40 hours of service for his one-week vacation in computation period II even though paid for two weeks of vacation. In computation period III, A takes a vacation for a period lasting more than 2 weeks. A is entitled to be credited with 80 hours of service for his vacation in computation period III (40 hours per week multiplied by 2 weeks) even though the vacation lasted more than 2 weeks.

(B) Employee B has no regular work schedule. As a result of an injury, B is incapacitated for 1 day. A lump-sum payment of $500 is made to A with respect to the injury under an insurance program maintained by the employer. A pension plan maintained by the employer provides for the calculation of the number of hours of service to be credited to an employee without a regular work schedule on the basis of an 8-hour day. A is therefore required to be credited with no more than 8 hours for the day during which he was incapacitated, even though A's rate of pay immediately before the injury was $3.00 per hour.

(c) *Crediting of hours of service to computation periods.* (1) Except as provided in paragraph (c) (4) of this section, hours of service described in paragraph (a) (1) of this section shall be credited to the computation period in which the duties are performed.

(2) Except as provided in paragraph (c) (4) of this section, hours of service described in paragraph (a) (2) of this section shall be credited as follows:

(i) Hours of service credited to an employee on account of a payment which is calculated on the basis of units of time, such as hours, days, weeks or months, shall be credited to the computation period or computation periods in which the period during which no duties are performed occurs, beginning with the first unit of time to which the payment relates.

(ii) Hours of service credited to an employee by reason of a payment which is not calculated on the basis of units of time shall be credited to the computation period in which the period during which no duties are performed occurs, or if the period during which no duties are performed extends beyond one computation period, such hours of service shall be allocated between not more than the first two computation periods on any reasonable basis which is consistently applied with respect to all employees within the same job classifications, reasonably defined.

(3) Except as provided in paragraph (c) (4) of this section, hours of service described in paragraph (a) (3) of this section shall be credited to the computation period or periods to which the award or agreement for back pay pertains, rather than to the computation period in which the award, agreement or payment is made.

(4) In the case of hours of service to be credited to an employee in connection with a period of no more than 31 days which extends beyond one computation period, all such hours of service may be credited to the first computation period or the second computation period. Crediting of hours of service under this subparagraph must be done consistently with respect to all employees within the same job classifications, reasonably defined.

(5) *Examples.* The following examples are intended to illustrate paragraph (c) (4) of this section.

(i) An employer maintaining a plan pays employees on a bi-weekly basis. The plan designates the calendar year as the vesting computation period. The employer adopts the practice of crediting hours of service for the performance of duties during a bi-weekly payroll period to the vesting computation period in which the payroll period ends. Thus, when a payroll period ends on January 7, 1978, all hours of service to be credited to employees for the performance of duties during that payroll period are credited to the vesting computation period beginning on January 1, 1978. This practice is consistent with paragraph (c) (4) of this section, even though some hours of service credited to the computation period beginning on January 1, 1978, are attributable to duties performed during the previous vesting computation period.

(ii) An employer maintains a sick leave policy under which an employee is entitled to a certain number of hours of sick leave each year, on account of which the employee is paid his or her normal rate of compensation. An employee with a work schedule of 8 hours per day, 5 days per week, is sick from December 26, 1977 through January 4, 1978. Under the employer's sick leave policy, the employee is entitled to compensation for the entire period. A plan maintained by the employer establishes a calendar-year vesting computation period. The period from December 26, 1977 through December 31, 1977 includes 5 working days; the period from January 1, 1978 through January 4, 1978 includes 3 working days. Unless the plan adopts the alternative method for crediting service under paragraph (c) (4) of this section (illustrated in Example (iii), below) for the period of paid sick leave, the plan, pursuant to paragraph (c) (2) (i) of this section, must credit the employee with 40 hours of service in the 1977 vesting computation period (5 days multiplied by 8 hours per day) and 24 hours of service in the 1978 vesting computation period (3 days multiplied by 8 hours per day).

(iii) Same facts as in Example (ii), above, except that the plan adopts the practice of crediting hours of service for sick leave and other periods of compensated absences to the vesting computation period in which the employer's bi-weekly payroll period ends. The employee returns to work on January 5, 1978 and works for 2 days. For the 2-week payroll period ending on January 8, 1978, the employee may be credited with 80 hours of service in the 1978 vesting computation period (64 hours of service for the paid sick leave and 16 hours of service for the 2 days during which duties were performed).

(d) *Other Federal law.* Nothing in this section shall be construed to alter,

amend, modify, invalidate, impair or supersede any law of the United States or any rule or regulation issued under any such law. Thus, for example, nothing in this section shall be construed as denying an employee credit for an "hour of service" if credit is required by separate federal law. Furthermore, the nature and extent of such credit shall be determined under such law.

(e) *Additional examples.* (1) During a computation period, an employee was paid for working 38¼ hours a week for 45 weeks. During the remaining 7 weeks of the computation period the employee was not employed by this employer. The employee completed 1,721¼ hours of service (45 weeks worked multiplied by 38¼ hours per week). The employer may also round up hours at the end of the computation period or more frequently. Thus, this employee could be credited with 1,722 hours of service (or, if the employer rounded up at the end of each week, 39 hours of service per week, resulting in credit for 1,755 hours of service).

(2) During a computation period, an employee was paid for a workweek of 40 hours per week for 40 weeks and, including overtime, for working 50 hours per week for 8 weeks. The employee completed 2,000 hours of service (40 weeks multiplied by 40 hours per week, plus 8 weeks worked multiplied by 50 hours per week).

(3) During a computation period, an employee was paid for working 2 regularly scheduled 40-hour weeks and then became disabled. The employee was disabled through the remainder of the computation period and the following computation period. Throughout the period of disability, payments were made to the employee as follows: for the first month of the period of disability, the employer continued to pay the employee the employee's normal compensation at the same rate as before the disability occurred; thereupon, under the employer's disability insurance policy, payments were made to the employee in amounts equal to 80 percent of the employee's compensation before the disability. For the first computation period the employee is credited with 80 hours of service for the performance of duties (2 weeks multiplied by 40 hours per week) and 501 hours of service for the period of disability (the lesser of 501 hours of service or 50 weeks multiplied by 40 hours per week), or a total of 581 hours of service; for the second computation period the employee is credited with no hours of service because, under paragraph (a)(2)(i) of this section, the maximum of 501 hours of service has been credited for the period of disability in the first computation period.

(4) An employee has a regularly scheduled 5-day, 40-hour week. During a computation period the employee works for the first week, spends the second week on a paid vacation, returns to work for an hour and is then disabled for the remainder of the computation period. Payments under a disability plan maintained by the employer are made to the employee on account of the period of disability. The employee is credited with 582 hours of service for the computation period (40 hours for the period of paid vacation; 41 hours for the performance of duties; 501 hours for the period of disability).

(5) Same facts as in Example (4), above, except that the employee's period of disability begins before the employee returns from vacation to the performance of duties. The employee is credited with only 541 hours of service, because the paid vacation and the disability together constitute a single, continuous period during which no duties were performed and, therefore, under paragraph (a)(2)(i) of this section, no more than 501 hours of service are required to be credited for such period.

(6) During a computation period, an employee worked 40 hours a week for the first 2 weeks. The employee then began serving on active duty in the Armed Forces of the United States, which service occupied the remaining 50 weeks of the computation period. The employee would be credited with 80 hours (2 weeks worked multiplied by 40 hours) plus such credit as may be prescribed by separate Federal laws relating to military service. The nature and extent of the credit that the employee receives upon his return and the purpose for which such credit is given, e.g., the percentage of his or her accrued benefits derived from employer contributions which are nonforfeitable (or vested), will depend upon the interpretation of the federal law governing veterans' reemployment rights.

(f) *Plan document.* A plan which credits service on the basis of hours of service must state in the plan document the definition of hours of service set forth in paragraph (a) of this section, but is not required to state the rules set forth in paragraphs (b) and (c) of this section if they are incorporated by reference.

§ 2530.200b–3 Determination of service to be credited to employees.

(a) *General rule.* For the purpose of determining the hours of service which must be credited to an employee for a computation period, a plan shall determine hours of service from records of hours worked and hours for which payment is made or due or shall use an equivalency permitted under paragraphs (d), (e) or (f) of this section to determine hours of service. Any records may be used to determine hours of service to be credited to employees under a plan, even though such records are maintained for other purposes, provided that they accurately reflect the actual number of hours of service with which an employee is required to be credited under § 2530.200b–2(a). Payroll records, for example, may provide sufficiently accurate data to serve as a basis for determining hours of service. If, however, existing records do not accurately reflect the actual number of hours of service with which an employee is entitled to be credited, a plan must either develop and maintain adequate records or use one of the permitted equivalencies. A plan may in any case credit hours of service under any method which results in the crediting of no less than the actual number of hours of service required to be credited under § 2530.200b–2(a) to each employee in a computation period, even though such method may result in the crediting of hours of service in excess of the number of hours required to be credited under § 2530.200b–2. A plan is not required to prescribe in its documents which records are to be used to determine hours of service.

(b) *Determination of pre-effective date hours of service.* To the extent that a plan is required to determine hours of service completed before the effective date of Part 2 of Title I of the Act (see section 211 of the Act), the plan may use whatever records may be reasonably accessible to it and may make whatever calculations are necessary to determine the approximate number of hours of service completed before such effective date. For example, if a plan or an employer maintaining the plan has, or has access to, only the records of compensation of employees for the period before the effective date, it may derive the pre-effective date hours of service by using the hourly rate for the period or the hours customarily worked. If accessible records are insufficient to make an approximation of the number of pre-effective date hours of service for a particular employee or group of employees, the plan may make a reasonable estimate of the hours of service completed by such employee or employees during the particular period. For example, if records are available with respect to some employees, the plan may estimate the hours of other employees in the same job classification based on these records. A plan may use any of the equivalencies permitted under this section, or the elapsed time method of crediting service permitted under this section, or the elapsed time method of crediting service permitted under § 2530.200b–9, to determine hours of service completed before the effective date of Part 2 of Title I of the Act.

(c) *Use of equivalencies for determining service to be credited to employees.* (1) The equivalencies permitted under paragraphs (d), (e) and (f) of this section are methods of determining service to be credited to employees during computation periods which are alternatives to the general rule for determining hours of service set forth in paragraph (a) of this section. The equivalencies are designed to enable a plan to determine the amount of service to be credited to an employee in a computation period on the basis of records which do not accurately reflect the actual number of hours of service required to be credited to the employee under § 2530.200b–2(a). However, the equivalencies may be used even if such records are maintained. Any equivalency used by a plan must be set forth in the document under which the plan is maintained.

(2) A plan may use different methods of crediting service, including equivalencies permitted under paragraphs (d), (e) and (f) of this section and the method of crediting service under the general rule set forth in § 2530.200b–

2(a), for different classifications of employees covered under the plan or for different purposes, provided that such classifications are reasonable and are consistently applied. Thus, for example, a plan may provide that part-time employees are credited under the general method of crediting service set forth in § 2530.200b–2 and full-time employees are credited under a permissible equivalency. A classification, however, will not be deemed to be reasonable or consistently applied if such classification is designed with an intent to preclude an employee or employees from attaining statutory entitlement with respect to eligibility to participate, vesting or benefit accrual. For example, a classification applied so that any employee credited with less than 1,000 hours of service during a given 12-consecutive-month period would be considered part-time and subject to the general method of crediting service rather than an equivalency would not be reasonable.

(3) Notwithstanding paragraphs (c) (1) and (2) of this section, the use of a permissible equivalency for some, but not all, purposes or the use of a permissible equivalency for some, but not all, employees may, under certain circumstances, result in discrimination prohibited, result in discrimination pro-Code, even though it is permitted under this section.

(d) *Equivalencies based on working time.* (1) *Hours worked.* A plan may determine service to be credited to an employee on the basis of hours worked, as defined in paragraph (d) (3) (i) of this section, if 870 hours worked are treated as equivalent to 1,000 hours of service and 435 hours worked are treated as equivalent to 500 hours of service.

(2) *Regular time hours.* A plan may determine service to be credited to an employee on the basis of regular time hours, as defined in paragraph (d) (3) (ii) of this section, if 750 regular time hours are treated as equivalent to 1,000 hours of service and 375 regular time hours are treated as equivalent to 500 hours of service.

(3) For purposes of this section:

(i) The term "hours worked" shall mean hours of service described in § 2530.200b–2(a) (1), and hours for which back pay, irrespective of mitigation of damages, is awarded or agreed to by an employer, to the extent that such award or agreement is intended to compensate an employee for periods during which the employee would have been engaged in the performance of duties for the employer.

(ii) The term "regular time hours" shall mean hours worked, except hours for which a premium rate is paid because such hours are in excess of the maximum workweek applicable to an employee under section 7(a) of the Fair Labor Standards Act of 1938, as amended, or because such hours are in excess of a bona fide standard workweek or workday.

(4) A plan determining service to be credited to an employee on the basis of hours worked or regular time hours shall credit hours worked or regular time hours, as the case may be, to computation periods in accordance with the rules for crediting hours of service to computation periods set forth in § 2520.200b–2 (c).

(5) *Examples.* (i) A defined benefit plan uses the equivalency based on hours worked permitted under paragraph (d) (1) of this section. The plan uses the same 12-consecutive-month period for the vesting and accrual computation periods. The plan credits a participant with each hour for which the participant is paid, or entitled to payment, for the performance of duties for the employer during a computation period (as well as each hour for which back pay is awarded or agreed to). During a vesting/accrual computation period Participant A is credited with 870 hours worked. A is credited with a year of service for purposes of vesting for the computation period and with at least a partial year of participation for purposes of accrual, as if A had been credited with 1000 hours of service during the computation period. During the same computation period Participant B is credited with 436 hours of service. B is not credited with a year of service for purposes of vesting or a partial year of participation for purposes of accrual for the computation period, but does not incur a one-year break in service for the computation period, as if B had been credited with 501 hours of service during the computation period.

(ii) A plan uses the equivalency based on regular time hours permitted under paragraph (d) (2) of this section. During a computation period a participant works 370 regular time hours and 20 overtime hours. The participant incurs a one-year break in service for the computation period because he has not been credited with 375 regular time hours in the computation period.

(e) *Equivalencies based on periods of employment.* (1) Except as provided in paragraphs (e) (4) and (6) of this section, a plan may determine the number of hours of service to be credited to employees in a computation period on the following bases:

(i) On the basis of days of employment, if an employee is credited with 10 hours of service for each day for which the employee would be required to be credited with at least one hour of service under § 2530.200b–2;

(ii) On the basis of weeks of employment, if an employee is credited with 45 hours of service for each week for which the employee would be required to be credited with at least one hour of service under § 2530.200b–2;

(iii) On the basis of semi-monthly payroll periods, if an employee is credited with 95 hours of service for each semi-monthly payroll period for which the employee would be required to be credited with at least one hour of service under § 2530.200b–2; or

(iv) On the basis of months of employment, if an employee is credited with 190 hours of service for each month for which the employee would be required to be credited with at least one hour of service under § 2530.200b–2.

(2) Except as provided in paragraphs (e) (4) and (6) of this section, a plan may determine the number of hours of service to be credited to employees in a computation period on the basis of shifts if an employee is credited with the number of hours included in a shift for each shift for which the employee would be required to be credited with at least one hour of service under § 2530.200b–2. If a plan uses the equivalency based on shifts permitted under this paragraph, the times of the beginning and end of each shift used as a basis for the determination of service shall be set forth in a document referred to in the plan.

(3) *Examples.* The following examples illustrate the application of paragraphs (e) (1) and (2) of this section:

(i) A plan uses the equivalency based on weeks of employment permitted under paragraph (e) (1) (ii) of this section. An employee works for one hour on the first workday of a week and then takes leave without pay for the entire remainder of the week. The plan must credit the employee with 45 hours of service for the week.

(ii) A plan uses the equivalency based on weeks of employment permitted under paragraph (e) (1) (ii) of this section. An employee spends a week on vacation with pay. The plan must credit the employee with 45 hours of service for the week.

(iii) A plan uses the equivalency based on weeks of employment permitted under paragraph (e) (1) (ii) of this section. An employee spends two days of a week on vacation with pay and the remainder of the week on leave without pay. The plan must credit the employee with 45 hours of service for the week.

(iv) A plan uses the equivalency based on weeks of employment permitted under paragraph (e) (1) (ii) of this section. An employee spends the entire week on leave without pay. The plan is not required to credit the employee with any hours of service for the week because no payment was made to the employee for the week of leave and, therefore, under § 2530.200b–2 no hours of service would be credited to the employee for the week of leave.

(v) The workday of an employer maintaining a plan is scheduled in shifts. Ordinarily, each shift is 6 hours in duration. At certain times, however, the employer schedules 8-hour shifts in order to meet increased demand. Such shifts are described in a collective bargaining agreement referred to in the plan documents. The plan must credit an employee with 6 hours of service for each 6-hour shift for which the employee would be credited with one hour of service under § 2530.200b–2, and with 8 hours of service for each such 8-hour shift.

(vi) An employer's workday is divided into three 8-hour shifts, each employee generally working 5 shifts per week. A plan maintained by the employer uses the equivalency based on shifts permitted under paragraph (e) (2) of this section. An employee is on vacation with pay for 2 weeks, during which, in the ordinary course of his work schedule, he would have workd 10 shifts. The employee must be credited with 80 hours of

service for the vacation (10 shifts multiplied by 8 hours per shift).

(vii) An employer's workday is divided into 3 8-hour shifts, each employee generally working 1 shift per workday. A plan maintained by the employer uses the equivalency based on shifts permitted under paragraph (e)(2) of this section. On a certain day, an employee works his normal 8-hour shift and an hour during the following shift. In addition to 8 hours service for the first shift, the employee must be credited with 8 hours of service for the following shift, since he would be entitled to be credited with at least one hour of service for the second shift under § 2530.200b–2.

(viii) A plan uses the equivalency based on days permitted under paragraph (e)(1)(i) of this section. During a computation period an employee spends 2 weeks on vacation with pay. In the ordinary course of the employee's regular work schedule, the employee would be engaged in the performance of duties for 10 days during the 2-week vacation period. Under § 2530.200b–2, the employee would be credited with at least one hour of service for each of the 10 days during the 2-week vacation for which the employee would ordinarily be engaged in the performance of duties. Under paragraph (e)(4) of this section, the employee is credited with 100 hours of service for the 2-week vacation (10 days multiplied by 10 hours of service per day).

(4) For purposes of this paragraph, in the case of a payment described in § 2530.20b–2(b)(2) (relating to payments not calculated on the basis of units of time), a plan using an equivalency based on units of time permitted under this paragraph shall credit the employee with the number of hours of service determined under subparagraph (2) of § 2530.200b–2(b), and, to the extent applicable, paragraph (e)(3), containing the rule against double crediting, of § 2530.200b–2(b). For example, if an employee with a regular work schedule of 40 hours per week paid at a rate of $3.00 per hour is incapacitated for a period of 4 weeks and receives a lump sum payment of $500 for his incapacity, the employee must be credited with 160 hours of service for the period of incapacity, regardless of whether the plan uses an equivalency permitted under this paragraph (*see* example at § 2530.200b–2(b)(2)(iii)(A)). If, however, the employee is incapacitated for only 3 weeks, under § 2530.200b–2(b)(3) the employee is not required to be credited with more than 120 hours of service (lesser of 167 hours of service determined under the preceding sentence or 3 weeks multiplied by 40 hours per week).

(5) For purposes of this paragraph, in the case of a payment to an employee calculated on the basis of units of time which are greater than the periods of employment used by a plan as a basis for determining service to be credited to the employee under this paragraph, the plan shall credit the employee with the number of periods of employment which, in the course of the employee's regular work schedule, would be included in the unit or units of time on the basis of which the payment is calculated. For example, a plan uses the equivalency based on days permitted under paragraph (e)(1)(i) of this section. During a computation period an employee spends 2 weeks on vacation with pay. In the ordinary course of the employee's regular work schedule, the employee would be engaged in the performance of duties for 10 days during the 2-week vacation period. Under § 2530.200b–2, the employee would be credited with at least one hour of service for each of the 10 days during the 2-week vacation for which the employee would ordinarily be engaged in the performance of duties. Under this subparagraph the employee is credited with 100 hours of service for the 2-week vacation (10 days multiplied by 10 hours of service per day). If, however, the employee, although paid for a 2-week vacation, spends only one week on vacation, under § 2530.200b–2(b)(3) the employee is not required to be credited with more than 50 hours of service (5 days multiplied by 10 hours per day).

(6) For purposes of this paragraph, in the case of periods of time used as a basis for determining service to be credited to an employee which extend into two computation periods, the plan may credit all hours of service (or other units of service) credited for such a period to the first computation period or the second computation period, or may allocate such hours of service (or other units of service) between the two computation periods on a pro rata basis. Crediting of service under this subparagraph must be done consistently with respect to all employees within the same job classifications, reasonably defined.

(7) A plan may combine an equivalency based on working time permitted under paragraph (d) of this section (i.e., hours worked or regular time hours) with an equivalency based on periods of employment permitted under this paragraph if the following conditions are met:

(i) The plan credits an employee with the number of hours worked or regular time hours, as the case may be, equal to the number of hours of service which would be credited to the employee under paragraph (e)(1) and (2) of this section, for each period of employment for which the employee would be credited with one hour worked or one regular time hour; and

(ii) The plan treats hours worked and regular time hours in the manner prescribed under paragraph (d)(1) and (d)(2) of this section.

(8) *Example.* The following example illustrates the application of paragraph (e)(7) of this section. A plan uses the equivalency based on weeks of employment permitted under paragraph (e)(1)(ii) of this section in conjunction with the equivalency based on hours worked permitted under paragraph (d)(1) of this section, as provided in paragraph (e)(7) of this section. During a vesting computation period an employee is paid for the performance of duties for at least 1 hour in each of the first 20 weeks of the computation period and spends the next 2 weeks on a paid vacation. The employee thereupon terminates employment performing no further duties for the employer, and receiving no further compensation in the computation period. The employee is therefore credited with 900 hours worked for the vesting computation period (20 weeks multiplied by 45 hours per week), receiving no credit for the two weeks of paid vacation. The employee is credited with a year of service for the vesting computation period because he has been credited with more than 870 hours for the computation period.

(f) *Equivalencies based on earnings.* (1) In the case of an employee whose compensation is determined on the basis of an hourly rate, a plan may determine the number of hours to be credited the employee in a computation period on the basis of earnings, if:

(i) The employee is credited with the number of hours equal to the total of the employee's earnings from time to time during the computation period divided by the employee's hourly rate as in effect at such times during the computation period, or equal to the employee's total earnings for the performance of duties during the computation period divided by the employee's lowest hourly rate of compensation during the computation period, or by the lowest hourly rate of compensation payable to an employee in the same, or a similar, job classification, reasonably defined; and

(ii) 870 hours credited under paragraph (f)(1)(i) of this section are treated as equivalent to 1,000 hours of service, and 435 hours credited under paragraph (f)(1)(i) of this section are treated as equivalent to 500 hours of service.

For purposes of this paragraph (f)(1), a plan may divide earnings at premium rates for overtime by the employee's hourly rate for overtime, rather than the regular time hourly rate.

(2) In the case of an employee whose compensation is determined on a basis other than an hourly rate, a plan may determine the number of hours to be credited to the employee in a computation period on the basis of earnings if:

(i) The employee is credited with the number of hours equal to the employee's total earnings for the performance of duties during the computation period divided by the employee's lowest hourly rate of compensation during the computation period, determined under paragraph (f)(3) of this section; and

(ii) 750 hours credited under paragraph (f)(2)(i) of this section are treated as equivalent to 1,000 hours of service, and 375 hours credited under paragraph (f)(2)(i) of this section are treated as equivalent to 500 hours of service.

(3) For purposes of paragraph (f)(2) of this section, an employee's hourly rate of compensation shall be determined as follows:

(i) In the case of an employee whose compensation is determined on the basis of a fixed rate for a specified period of time (other than an hour) such as a day, week or month, the employee's hourly rate of compensation shall be the employee's lowest rate of compensation during a computation period for such specified period of time divided by the number of hours regularly scheduled for the performance of duties during such period of time. For purposes of the preceding sentence, in the case of an employee without a regular work schedule, the plan may provide for the calculation of the employee's hourly rate of compensation on the basis of a 40-hour workweek or an 8-hour workday, or may provide for such calculation on any reasonable basis which reflects the average hours worked by the employee over a representative period of time, provided that the basis so used is consistently applied to all employees within the same job classifications, reasonably defined.

(ii) In the case of an employee whose compensation is not determined on the basis of a fixed rate for a specified period of time, the employee's hourly rate of compensation shall be the lowest hourly rate of compensation payable to employees in the same job classification as the employee, or, if no employees in the same job classification have an hourly rate, the minimum wage as established from time to time under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(4) *Examples.* (i) In a particular job classification employees' wages range from $3.00 per hour to $4.00 per hour. To determine the number of hours to be credited to an employee in that job classification who is compensated at a rate of $4.00 per hour, a plan may divide the employee's total earnings during the computation period for the performance of duties either by $3.00 per hour (the lowest hourly rate of compensation in the job classification) or by $4.00 per hour (the employee's own hourly rate of compensation).

(ii) An hourly employee's total earnings for the performance of duties during a vesting computation period amount to $4,350. During that calendar year, the employee's lowest hourly rate of compensation was $5.00 per hour. The plan may determine the number of hours to be credited to the employee for that vesting computation period by dividing $4,350 by $5.00 per hour. The employee is credited with 870 hours for the vesting computation period and is, therefore, credited with a year of service for purposes of vesting.

(iii) During the first 3 months of a vesting computation period an hourly employee is paid at a rate of $3.00 per hour and earns $675 for the performance of duties; during the next 6 months, the employee is paid at a rate of $3.50 per hour and earns $1,575 for the performance of duties; during the final 3 months the employee is paid at a rate of $3.60 per hour and earns $810 for the performance of duties. The plan may determine the number of hours to be credited to the employee in the computation period under the equivalency set forth in paragraph (f)(1) of this section either (A) by dividing the employee's earnings for each period during which the employee was paid at a separate rate ($675 divided by $3.00 per hour equals 225 hours; $1,575 divided by $3.50 per hour equals 450 hours; $810 divided by $3.60 per hour equals 225 hours) and adding the hours so obtained (900 hours), or (B) by dividing the employee's total compensation for the vesting computation period by the employee's lowest hourly rate during the computation period ($3,020 divided by $3.00 per hour equals 1,009⅔ hours). The plan may also divide the employee's total compensation during the computation period by the lowest hourly rate payable to an employee in the same, or a similar, job classification.

(iv) During a plan's computation period an hourly employee's total earnings for the performance of duties consist of $7,500 at a basic rate of $5.00 per hour and $750 at an overtime rate of $7.50 per hour for hours worked in excess of 40 in a week. If the plan uses the equivalency permitted under paragraph (f)(1) of this section, the plan may adjust for the overtime rate in calculating the number of hours to be credited to the employee. Thus, the plan may calculate the number of hours to be credited to the employee by adding the employee's earnings at the basic rate divided by the basic rate and the employee's earnings at the overtime rate divided by the overtime rate ($7,500 divided by $5.00 per hour, plus $750 divided by $7.50 per hour, or 1,500 hours plus 100 hours), resulting in credit for 1,600 hours for the computation period.

(v) During a plan's vesting computation period an employee's lowest weekly rate of compensation is $400 per week. The employee has a regular work schedule of 40 hours per week. The employee's lowest hourly rate during the vesting computation period is, therefore, $10 per hour ($400 per week divided by 40 hours per week). During the vesting computation period, the employee receives a total of $7,500 for the performance of duties. The plan determines the number of regular time hours to be credited to the employee for the computation period by dividing $7,500 by $10 per hour. The employee is credited with 750 hours for the computation period and is, therefore, credited with a year of service for purposes of vesting.

§ 2530.200b–4 One-year break in service.

(a) *Computation period.* (1) Under sections 202(b) and 203(b)(3) of the Act and sections 410(a)(5) and 411(a)(6) of the Code, a plan may provide that an employee incurs a one-year break in service for a computation period or periods if the employee fails to complete more than 500 hours of service or, in the case of any maritime industry, 62 days of service in such period or periods.

(2) For purposes of section 202(b) of the Act and section 410(a)(5) of the Code, relating to one-year breaks in service for eligibility to participate, in determining whether an employee incurs a one-year break in service, a plan shall use the eligibility computation period designated under § 2530.202–2(b) for measuring years of service after the initial eligibility computation period.

(3) For purposes of section 203(b)(3) of the Act and section 411(a)(6) of the Code, relating to breaks in service for purposes of vesting, in determining whether an employee incurs a one-year break in service, a plan shall use the vesting computation period designated under § 2530.203–2(a).

(4) For rules regarding service which is not required to be taken into account for purposes of benefit accrual, see § 2530.204–1(b)(1).

(b) *Service following a break in service.* (1) For purposes of section 202(b)(3) of the Act and section 410(a)(5)(C) of the Code (relating to completion of a year of service for eligibility to participate after a one-year break in service), the following rules shall be applied in measuring completion of a year of service upon an employee's return after a one-year break in service:

(i) In the case of a plan which, after the initial eligibility computation period, measures years of service for purposes of eligibility to participate on the basis of eligibility computation periods beginning on anniversaries of an employee's employment commencement date, as permitted under § 2530.202–2(b)(1), the plan shall use the 12-consecutive-month period beginning on an employee's reemployment commencement date (as defined in paragraph (b)(1)(iii) and (iv) of this section) and, where necessary, subsequent 12-consecutive-month periods beginning on anniversaries of the reemployment commencement date.

(ii) In the case of a plan which, after the initial eligibility computation period, measures years of service for eligibility to participate on the basis of plan years beginning with the plan year which includes the first anniversary of the initial eligibility computation period, as permitted under § 2530.202–2(b)(2), the plan shall use the 12-consecutive-month period beginning on an employee's reemployment commencement date (as defined in paragraph (b)(1)(iii) and (iv) of this section and, where necessary, plan years beginning with the plan year which includes the first anniversary of the employee's reemployment commencement date.

(iii) Except as provided in paragraph (b)(1)(iv) of this section, an employee's reemployment commencement date shall be the first day on which the employee is entitled to be credited with an hour of service described in § 2530.200b–2(a)(1) after the first eligibility computation period in which the employee incurs a one-year break in service following an eligibility computation period in which the employee is credited with more than 500 hours of service.

(iv) In the case of an employee who is credited with no hours of service in an eligibility computation period beginning after the employee's reemployment commencement date established under subparagraph (b)(1)(iii) of this section, the

employee shall be treated as having a new reemployment commencement date as of the first day on which the employee is entitled to be credited with an hour of service described in § 2530.200b–2(a)(1) after such eligibility computation period.

(2) For purposes of section 203(b)(3)(B) of the Act and section 411(a)(6)(B) of the Code (relating to the completion of a year of service for vesting following a one-year break in service), in measuring completion of a year of service upon an employee's return after a one-year break in service, a plan shall use the vesting computation period designated under § 2530.203–2. In the case of a plan which designates a separate vesting computation period for each employee (rather than one vesting computation period for all employees), when an employee who has incurred a one-year break in service later completes an initial hour of service, the plan may change the employee's vesting computation period to a 12-consecutive-month period beginning on the day on which such initial hour of service is completed, provided that the plan follows the rules for changing the vesting computation period set forth in § 2530.203–2(c)(1). Specifically, such a plan must ensure that as a result of the change of the vesting computation period of an employee who has incurred a one-year break in service to the 12-month period beginning on the first day on which the employee later completes an initial hour of service, the employee's vested percentage of the accrued benefit derived from employer contributions will not be less on any date after the change than such nonforfeitable percentage would be in the absence of the change. As under § 2530.203–2(c)(i), the plan will be deemed to satisfy the requirement of that paragraph if, in the case of an employee who has incurred a one-year break in service, the vesting computation period beginning on the day on which the employee completes an hour of service after the one-year break in service begins before the end of the last vesting computation period established before the change of vesting computation periods and, if the employee is credited with 1000 hours of service in both such vesting computation periods, the employee is credited with 2 years of service for purposes of vesting.

(3) For purposes of section 203(b)(3)(B) of the Act and section 411(a)(6)(B) of the Code (relating to the completion of a year of service for vesting following a one-year break in service), in measuring completion of a year of service upon an employee's return after a one-year break in service, a plan shall use the vesting computation period designated under § 2530.203–2. In the case of a plan which designates a separate vesting computation period for each employee (rather than one vesting computation period for all employees), when an employee who has incurred a one-year break in service later completes an initial hour of service, the plan may change the employee's vesting computation period to a 12-consecutive-month period beginning on the day on which such initial hour of service is completed, provided that the plan follows the rules for changing the vesting computation period set forth in § 2530.203–2(c)(1).

(4) *Examples.* (i) Employer X maintains a pension plan. The plan uses a calendar year vesting computation period and plan year. As conditions for participation, the plan requires that an employee of X complete one year of service and attain age 25, and, in accordance with § 2530.202–2(b)(2), provides that after the initial eligibility computation period, plan years will be used as eligibility computation periods, beginning with the plan year which includes the first anniversary of an employee's employment commencement date. Thus, under paragraph (a)(2) of this section, the plan must use plan years in measuring one-year breaks in service for eligibility to participate. The plan provides that an employee acquires a nonforfeitable right to 100 perment of the accrued benefit derived from employer contributions upon completion of 10 years of service. Under the plan, for purposes of vesting, years of service completed before an employee attains age 22 are not taken into account. The plan also provides that if an employee has incurred a one-year break in service, in computing the employee's period of service for eligibility to participate, years of service before such break will not be taken into account until the employee has completed a year of service with X after the employee's return. The plan further provides that in the case of an employee who has no vested right to an accrued benefit derived from employer contributions, years of service for purposes of eligibility to participate or vesting before a one-year break in service for eligibility or vesting (as the case may be) shall not be required to be taken into account if the number of consecutive one-year breaks in service equals or exceeds the aggregate number of such years of service before such consecutive one-year breaks in service.

(A) Employee A commences employment with X on January 1, 1976 at age 30 and completes a year of service for eligibility to participate and vesting in both the 1976 and 1977 computation periods. A becomes a participant in the plan on January 1, 1977. A terminates employment with X on November 3, 1977, after completing 1000 hours of service; completes no hours of service in 1978, incurring a one-year break in service; and is reemployed by X on June 1, 1979. A completes 800 hours of service during the remainder of 1979 and 600 hours of service from January 1, 1980 through May 31, 1980. Under paragraph (b)(1)(iii) of this section, A's reemployment commencement date is June 1, 1979. By June 1, 1980, A has completed a year of service during the eligibility computation period following his return, and receives credit for his pre-break service to the extent required under section 202 of the Act and section 410 of the Code and the regulations thereunder. The plan is not, however, required to credit A with a year of service for vesting during 1979 because he failed to complete 1,000 hours of service during that vesting computation period. If A completes 400 or more hours of service from June 1, 1980 to December 31, 1980, then A will be credited with one year of service for vesting purposes for the 1980 vesting computation period.

(B) Employee B was born on February 22, 1955 and commenced employment with Employer X on July 1, 1975. B is credited with a year of service for eligibility to participate in the plan for the eligibility computation period beginning on his employment commencement date (July 1, 1975) and a year of service for eligibility and vesting for the 1976 and 1977 plan years. As of the end of the 1977 plan year, B is credited with 3 years of service for purposes of eligibility to participate, but only one year of service for purposes of vesting. Not having attained age 25, however, B is not admitted to participation in the plan upon completion of his first year of service with X. In the 1978 plan year, B fails to be credited with 500 hours of service, thereby incurring a one-year break in service. As a result of B's one-year break in service in the 1978 plan year, the year of service for vesting which was earlier credited to B for the 1977 plan year is disregarded because the one-year break in service equals the one year of service credited to B before the one-year break in service. After the end of the 1978 plan year, B does not perform an hour of service with X until February 3, 1979. February 3, 1979, therefore, is B's reemployment commencement date under paragraph (b)(1)(i) of this section. B fails to be credited with 1000 hours of service in the first eligibility computation period beginning on February 3, 1979, and also for the vesting computation period beginning January 1, 1979. Because, in accordance with § 2530.202–2(b)(2), the plan provides that after the initial eligibility computation period, plan years will be used as eligibility computation periods, under paragraph (b)(1)(ii) of this section the plan must provide that, in measuring completion of a year of service for eligibility to participate after a one-year break in service, plan years beginning with the plan year which includes an employee's reemployment commencement date will be used. B is credited with 1000 hours of service for the plan year beginning on January 1, 1980 and is therefore credited with a year of service for the 1980 plan year. Under section 202(b)(3) of the Act and section 410(a)(5)(C) of the Code, as a consequence of B's completion of a year of service in the 1980 plan year, B's service before his one-year break in service in the 1978 plan year must be taken into account for eligibility purposes. As conditions of participation, the plan requires that an employee attain age 25 and complete one year of service. Upon his completion of a year of service for the 1980 plan year, B is deemed to have met the plan's participation requirements as of February 22, 1980, his twenty-fifth birthday, because the year of service completed by B in B's eligibility computation period beginning on January 1, 1976 is

taken into account for eligibility purposes.

(ii) Employer Y maintains a defined benefit pension plan. The plan provides that an employee acquires a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions upon completion of 10 years of service. As conditions for participation, the plan requires that an employee of Y complete one year of service and provides that if an employee has incurred a one-year break in service, in computing the employee's period of service for eligibility to participate, years of service before such break will not be taken into account until the employee has completed a year of service with Y after the employee's return. In accordance with § 2530.202–2(b)(1), the plan provides that after the initial eligibility computation period, eligibility computation periods beginning on anniversaries of an employee's employment commencement date will be used. Thus, under paragraph (a)(1) of this section, the plan must use computation periods beginning on anniversaries of the employee's employment commencement date in measuring one-year breaks in service. Employee C's employment commencement date with Y is February 1, 1975. C is credited with a year of service for eligibility to participate in the eligibility computation period beginning on C's employment commencement date and meets the plan's eligibility requirements as of February 1, 1976. In accordance with the provisions of the plan, C commences participation in the plan as of July 1, 1976. C is thereafter credited with a year of service for eligibility to participate in each of the eligibility computation periods beginning on anniversaries of C's employment commencement date (February 1) in 1976, 1977, 1978 and 1979. Thus, as of February 1, 1980, C is credited with 5 years of service for eligibility to participate. In the eligibility computation period beginning on February 1, 1980, C fails to be credited with more than 500 hours of service and therefore incurs a one-year break in service. In the eligibility computation period beginning on February 1, 1981, C is not credited with an hour of service for the performance of duties until March 1, 1981. Under paragraph (b)(1)(iii) of this section, March 1, 1981 is C's reemployment commencement date. C terminates employment with Y on May 1, 1981 and fails to be credited with 1000 hours of service in the 12-consecutive-month period beginning on March 1, 1981, or with more than 500 hours of service in the eligibility computation period beginning on February 1, 1981, thereby incurring a second one-year break in service for eligibility to participate. C is credited with no hours of service in the eligibility computation period beginning on February 1, 1982, thereby incurring a third one-year break in service for eligibility to participate, and is likewise credited with no hours of service in the 12-consecutive-month period beginning on March 1, 1982, the anniversary of B's reemployment commencement date. Under paragraph (b)(1)(iv) of this section, C must therefore be treated as having a new reemployment commencement date as of the first day following the close of the eligibility computation period beginning on February 1, 1982. On January 1, 1984 (before the end of the eligibility computation period beginning February 1, 1983) C is rehired by Y and is credited with an hour of service for the performance of duties. C is therefore treated as having a new reemployment commencement date January 1, 1984. C fails to be credited with more than 500 hours of service in the eligibility computation period beginning on February 1, 1983, thereby incurring a fourth one-year break in service, and fails to be credited with 1000 hours of service in the 12-consecutive-month period beginning on March 1, 1983, the anniversary of C's original reemployment commencement date. However, in the 12-consecutive-month period beginning on January 1, 1984, C is credited with 1000 hours of service, thus meeting the plan's requirement that an employee who has incurred a one-year break in service for eligibility to participate must complete a year of service upon the employee's return in order for years of service before the one-year break in service to be taken into account for purposes of eligibility. Because C's years of service completed before C's first one-year break in service must be taken into account under section 202(b) of the Act and section 410(b)(5) of the Code for purposes of eligibility to participate, under § 2530.204–2(a)(2) the period beginning on July 1, 1976 (the earliest date on which C was a participant) and extending until January 31, 1980 (the last day before C's first one-year break in service) must be taken into account for purposes of benefit accrual.

(c) *Prior service for eligibility to participate.* For rules relating to computing service preceding a break in service for the purpose of eligibility to participate in the plan, see § 2530.202–2(c).

(d) *Prior service for vesting.* For rules relating to computing service preceding a break in service for the purpose of credit toward vesting, see § 2530.203–2(d).

§ 2530.200b–5 Seasonal industries. [Reserved]

§ 2530.200b–6 Maritime industry.

(a) *General.* Sections 202(a)(3)(D), 203(b)(2)(D) and 204(b)(3)(E) of the Act and sections 410(a)(3)(D) and 411(a)(5)(D) and (b)(3)(E) of the Code contain special provisions applicable to the maritime industry. In general, those provisions permit statutory standards otherwise expressed in terms of 1,000 hours of service to be applied to employees in the maritime industry as if such standards were expressed in terms of 125 days of service. A plan covering employees in the maritime industry may nevertheless credit service to such employees on the basis of hours of service, as prescribed in § 2530.200b–2, including the use of any equivalency permitted under § 2530.200b–3, or may credit service to such employees on the basis of elapsed time, as permitted under § 2530.200b–9.

(b) *Definition.* For purposes of sections 202, 203, and 204 of the Act and sections 410 and 411 of the Code, the maritime industry is that industry in which employees perform duties on board commercial, exploratory, service or other vessels moving on the high seas, inland waterways, Great Lakes, coastal zones, harbors and noncontiguous areas, or on offshore ports, platforms or other similar sites.

(c) *Computation periods.* For employees in the maritime industry, computation periods shall be established as for employees in any other industry.

(d) *Year of service.* To the extent that a plan covers employees engaged in the maritime industry, and credits service for such employees on the basis of days of service, such employees who are credited with 125 days of service in the applicable computation period must be credited with a year of service. In the case of a plan covering both employees engaged in the maritime industry and employees not engaged in the maritime industry, service of employees not engaged in the maritime industry shall not be determined on the basis of days of service.

(e) *Year of participation for benefit accrual.* A plan covering employees engaged in the maritime industry may determine such an employee's period of service for purposes of benefit accrual on any basis permitted under § 2530.204–2 and § 2530.204–3. For purposes of § 2530.204–2(c) (relating to partial years of participation), in the case of an employee engaged in the maritime industry who is credited by the plan on the basis of days of service and whose service is not less than 125 days of service during an accrual computation period, the calculation of such employee's period of service for purposes of benefit accrual shall be treated as not made on a reasonable and consistent basis if service during such computation period is not taken into account. Thus, the employee must be credited with at least a partial year of participation (but not necessarily a full year of participation) for that accrual computation period, in accordance with § 2530.204–2(c).

(f) *Employment commencement date.* For purposes of § 2530.200b–4 (relating to breaks in service) and § 2530.202–2 (relating to eligibility computation periods):

(1) The employment commencement date of an employee engaged in the maritime industry who is credited by the plan on the basis of days of service shall be the first day for which the employee is entitled to be credited with a day of service described in § 2530.200b–7(a)(1).

(2) (i) Except as provided in paragraph (f)(2)(ii) of this section, the reemployment commencement date of an employee engaged in the maritime industry shall be the first day for which the employee is entitled to be credited with a day of service described in § 2530.200b–7(a)(1) after the first eligibility computation period in which the

employee incurs a one-year break in service following an eligibility computation period in which the employee is credited with more than 62 days of service.

(ii) In the case of an employee engaged in the maritime industry who is credited with no hours of service in an eligibility computation period beginning after the employee's reemployment commencement date established under paragraph (f) (2) (i) of this section, the employee shall be treated as having a new reemployment commencement date as of the first day for which the employee is entitled to be credited with day of service described in § 2530.200b–7(a) (1) after such eligibility computation period.

§ 2530.200b–7 Day of service for employees in the maritime industry.

(a) *General rule.* A day of service in the maritime industry which must, as a minimum, be counted for the purposes of determining a year of service, a year of participation for benefit accrual, a break in service and an employment commencement date (or reemployment commencement date) under sections 202, 203 and 204 of the Act and sections 410 and 411 of the Code by a plan that credits service by days of service rather than hours of service (as prescribed in § 2530.200b–2, or under equivalencies permitted under § 2530.200b–3) or elapsed time (as permitted under § 2530.200b–9), is a day of service as defined in paragraphs (a) (1), (2) and (3) of this section.

(1) A day of service is each day for which an employee is paid, or entitled to payment for the performance of duties for the employer during the applicable computation period.

(2) A day of service is each day for which an employee is paid, or entitled to payment, by the employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. Notwithstanding the preceding sentence,

(i) No more than 63 days of service are required to be credited under this paragraph (a) (2) to an employee on account of any single continuous period during which the employee performs no duties (whether or not such period occurs in a single computation period);

(ii) A day for which an employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workmen's compensation (including maintenance and care), or unemployment compensation or disability insurance laws; and

(iii) Days of service are not required to be credited for a payment which solely reimburses an employee for medical or medically related expenses incurred by the employee.

For purposes of this paragraph (a) (2), a payment shall be deemed to be made by or due from an employer regardless of whether such payment is made by or due from the employer directly, or indirectly through, among others, a trust, fund, or insurer, to which the employer contributes or pays premiums, and regardless of whether contributions made or due to the trust, fund, insurer or other entity are for the benefit of particular employees or are made on behalf of a group of employees in the aggregate.

(3) A day of service is each day for which back pay, irrespective of mitigation of damages, has been either awarded or agreed to by the employer. Days of service shall not be credited both under paragraph (a) (1) or paragraph (a) (2), as the case may be, and under this subparagraph. Thus, for example, an employee who receives a back pay award following a determination that he or she was paid at an unlawful rate for days of service previously credited will not be entitled to additional credit for the same days of service. Crediting of days of service for back pay awarded or agreed to with respect to periods described in paragraph (a) (2) shall be subject to the limitations set forth in that paragraph. For example, no more than 63 days of service are required to be credited for payments of back pay, to the extent that such back pay is agreed to or awarded for a period of time during which an employee did not or would not have performed duties.

(b) *Special rule for determining days of service for reasons other than the performance of duties.* In the case of a payment which is made or due on account of a period during which an employee performs no duties, and which results in the crediting of days of service under paragraph (a) (3) of this section, or, in the case of an award or agreement for back pay, to the extent that such award or agreement is made with respect to a period described in paragraph (a) (2) of this section, the number of days of service to be credited shall be determined as follows:

(1) *Payments calculated on the basis of units of time.* In the case of a payment made or due which is calculated on the basis of units of time, such as days, weeks or months, the number of days of service to be credited shall be the number of regularly scheduled working days included in the units of time on the basis of which the payment is calculated. For purposes of the preceding sentence, in the case of an employee without a regular work schedule, a plan may provide for the calculation of the number of days of service to be credited on the basis of a 5-day workweek, or may provide for such calculation on any reasonable basis which reflects the average days worked by the employee, or by other employees in the same job classification, over a representative period of time, provided that the basis so used is consistently applied with respect to all employees within the same job classifications, reasonably defined.

(2) *Payments not calculated on the basis of units of time.* Except as provided in paragraph (b) (3) of this section, in the case of a payment made or due, which is not calculated on the basis of units of time, the number of days of service to be credited shall be equal to the amount of the payment divided by the employee's most recent daily rate of compensation before the period during which no duties are performed.

(3) *Rule against double credit.* Notwithstanding paragraphs (b) (1) and (2) of this section, an employee is not required to be credited on account of a period during which no duties are performed with a number of days of service which is greater than the number of days regularly scheduled for the performance of duties during such period. For purposes of the preceding sentence, in the case of an employee without a regular work schedule, a plan may provide for the calculation of the number of days of service to be credited to the employee for a period during which no duties are performed on the basis of a 5-day workweek, or may provide for such calculation on any reasonable basis which reflects the average hours worked by the employee, or by other employees in the same job classification, over a representative period of time, provided that the basis so used is consistently applied with respect to all employees in the same job classifications, reasonably defined.

(c) *Crediting of days of service to computation periods.* (1) Except as provided in paragraph (c) (4) of this section, days of service described in paragraph (a) (1) of this section shall be credited to the computation period in which the duties are performed.

(2) Except as provided in paragraph (c) (4) of this section, days of service described in paragraph (a) (2) of this section shall be credited as follows:

(i) Days of service credited to an employee on account of a payment which is calculated on the basis of units of time, such as days, weeks or months, shall be credited to the computation period or computation periods in which the period during which no duties are performed occurs, beginning with the first unit of time to which the payment relates.

(ii) Days of service credited to an employee by reason of a payment which is not calculated on the basis of units of time shall be credited to the computation period in which the period during which no duties are performed occurs, or if the period during which no duties are performed extends beyond one computation period, such hours of service shall be allocated between not more than the first two computation periods on any reasonable basis which is consistently applied with respect to all employees within the same job classifications, reasonably defined.

(3) Except as provided in paragraph (c) (4) of this section, days of service described in paragraph (a) (3) of this section shall be credited to the computation period or periods to which the award or agreement for back pay pertains, rather than to the computation period in which

the award, agreement or payment is made.

(4) In the case of days of service to be credited to an employee in connection with a period of no more than 31 days which extends beyond one computation period, all such days of service may be credited to the first computation period or the second computation period. Crediting of days of service under this subparagraph must be done consistently with respect to all employees with the same job classifications, reasonably defined.

(d) *Other federal law.* Nothing in this section shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States or any rule or regulation issued under any such law. Thus, for example, nothing in this section shall be construed as denying an employee credit for a day of service if credit is required by separate federal law. Furthermore, the nature and extent of such credit shall be determined under such law.

(e) *Nondaily employees.* For maritime employees whose compensation is not determined on the basis of certain amounts for each day worked during a given period, service shall be credited on the basis of hours of service as determined in accordance with § 2530.200b-2(a) (including use of any equivalency permitted under § 2530.200b-3) or on the basis of elapsed time, as permitted under § 2530.200b-9.

(f) *Plan document.* A plan which credits service on the basis of days of service must state in the plan document the definition of days of service set forth in paragraph (a) of this section, but is not required to state the rules set forth in paragraph (b) and (c) if they are incorporated by reference.

§ 2530.200b-8 Determination of days of service to be credited to maritime employees.

(a) *General rule.* For the purpose of determining the days of service which must be credited to an employee for a computation period, a plan shall determine days of service from records of days worked and days for which payment is made or due. Any records may be used to determine days of service to be credited to employees under a plan, even though such records are maintained for other purposes, provided that they accurately reflect the actual number of days of service with which an employee is required to be credited under § 2530.-200b-7(a). Payroll records, for example, may provide sufficiently accurate data to serve as a basis for determining days of service. If, however, existing records do not accurately reflect the actual number of days of service with which an employee is entitled to be credited, a plan must develop and maintain adequate records. A plan may in any case credit days of service under any method which results in the crediting of no less than the actual number of days of service required to be credited under § 2530.200b-7(a) to each employee in a computation period, even though such method may result in the crediting of days of service in excess of the number of days required to be credited under § 2530.200b-7(a). A plan is not required to prescribe in its documents which records are to be used to determine days of service.

(b) *Determination of pre-effective date days of service.* To the extent that a plan is required to determine days of service completed before the effective date of Part 2 of Title I of the Act (*see* section 211 of the Act), the plan may use whatever records may be reasonably accessible to it and may make whatever calculations are necessary to determine the approximate number of hours of service completed before such effective date. For example, if a plan or an employer maintaining the plan has, or has access to, only the records of compensation of employees for the period before the effective date, it may derive the pre-effective date days of service by using the daily rate for the period or the days customarily worked. If accessible records are insufficient to make an approximation of the number of pre-effective date days of service for a particular employee or group of employees, the plan may make a reasonable estimate of the days of service completed by such employee or employees during the particular period. For example, if records are available with respect to some employees, the plan may estimate the days of service of other employees in the same job classification based on these records. A plan may use the elapsed time method prescribed under section 2530.200b-9 to determine days of service completed before the effective date of Part 2 of Title I of the Act.

§ 2530.200b-9 Elapsed time.

(a) *General.* (1) *Introduction to elapsed time method of crediting service.* (i) § 2530.200b-2 sets forth the general method of crediting service for an employee. The general method is based upon the actual counting of hours of service during the applicable 12-consecutive-month computation period. The equivalencies set forth in § 2530.200b-3 are also methods for crediting hours of service during computation periods. Under the general method and the equivalencies, an employee receives a year's credit (in units of years of service or year's of participation) for a computation period during which the employee is credited with a specified number of hours of service. In general, an employee's statutory entitlement with respect to eligibility to participate, vesting and benefit accrual is determined by totalling the number of years' credit to which an employee is entitled.

(ii) Under the alternative method set forth in this section, by contrast, an employee's statutory entitlement with respect to eligibility to participate, vesting and benefit accrual is not based upon the actual completion of a specified number of hours of service during a 12-consecutive-month period. Instead, such entitlement is determined generally with reference to the total period of time which elapses while the employee is employed (i.e., while the employment relationship exists) with the employer or employers maintaining the plan. The alternative method set forth in this section is designed to enable a plan to lessen the administrative burdens associated with the maintenance of records of an employee's hours of service by permitting each employee to be credited with his or her total period of service with the employer or employers maintaining the plan, irrespective of the actual hours of service completed in any 12-consecutive-month period.

(2) *Overview of the operation of the elapsed time method.* (i) Under the elapsed time method of crediting service, a plan is generally required to take into account the period of time which elapses while the employee is employed (i.e., while the employment relationship exists) with the employer or employers maintaining the plan, regardless of the actual number of hours he or she completes during such period. Under this alternative method of crediting service, an employee's service is required to be taken into account for purposes of eligibility to participate and vesting as of the date he or she first performs an hour of service within the meaning of § 2530.200b-2(a)(1) for the employer or employers maintaining the plan. Service is required to be taken into account for the period of time from the date the employee first performs such an hour of service until the date he or she severs from service with the employer or employers maintaining the plan.

(ii) The date the employee severs from service is the earlier of the date the employee quits, is discharged, retires or dies, or the first anniversary of the date the employee is absent from service for any other reason (e.g., disability, vacation, leave of absence, layoff, etc.). Thus, for example, if an employee quits, the severance from service date is the date the employee quits. On the other hand, if an employee is granted a leave of absence (and if no intervening event occurs), the severance from service date will occur one year after the date the employee was first absent on leave, and this one year of absence is required to be taken into account as service for the employer or employers maintaining the plan. Because the severance from service date occurs on the earlier of two possible dates (i.e., quit, discharge, retirement or death *or* the first anniversary of an absence from service for any other reason), a quit, discharge, retirement or death within the year after the beginning of an absence for any other reason results in an immediate severance from service. Thus, for example, if an employee dies at the end of a four-week absence resulting from illness, the severance from service date is the date of death, rather than the first anniversary date of the first day of absence for illness.

(iii) In addition, for purposes of eligibility to participate and vesting under the elapsed time method of crediting service, an employee who has severed from service by reason of a quit, discharge or retirement may be entitled to have a period of time of 12 months or less taken into account by the employer or employers maintaining the plan if the employee returns to service within a certain period of time and performs an

hour of service within the meaning of § 2530.200b–2(a)(1). In general, the period of time during which the employee must return to service begins on the date the employee severs from service as a rsult of a quit, discharge or retirement and ends on the first anniversary of such date. However, if the employee is absent for any other reason (e.g., layoff) and then quits, is discharged or retires, the period of time during which the employee may return and receive credit begins on the severance from service date and ends one year after the first day of absence (e.g., first day of layoff). As a result of the operation of these rules, a severance from service (e.g., a quit), or an absence (e.g., layoff) followed by a severance from service, never results in a period of time of more than one year being required to be taken into account after an employee severs from service or is absent from service.

(iv) For purposes of benefit accrual under the elapsed time method of crediting service, an employee is entitled to have his or her service taken into account from the date he or she begins to participate in the plan until the severance from service date. Periods of severance under any circumstances are not required to be taken into account. For example, a participant who is discharged on December 14, 1980 and rehired on October 14, 1981 is not required to be credited with the 10 month period of severance for benefit accrual purposes.

(3) *Overview of certain concepts relating to the elapsed time method.* (i) *General.* The rules with respect to the elapsed time method of crediting service are based on certain concepts which are defined in paragraph (b) of this section. These concepts are applied in the substantive rules contained in paragraphs (c), (d), (e), (f) and (g) of this section. The purpose of this subparagraph is to summarize these concepts.

(ii) *Employment commencement date.* (A) A concept which is necessary in order to credit service accurately under any service crediting method is the establishment of a starting point for crediting service. The employment commencement date, which is the date on which an employee first performs an hour of service within the meaning of § 2530.200b–2(a)(1) for the employer or employers maintaining the plan, is used throughout Part 2530 to establish the date upon which an employee must begin to receive credit for certain purposes (e.g. eligibility to participate and vesting).

(B) In order to credit accurately an employee's total service with an employer or employers maintaining the plan, a plan also may provide for an "adjusted" employment commencement date (*i.e.*, a recalculation of the employment commencement date to reflect noncreditable periods of severance) or a reemployment commencement date as defined in paragraph (b)(3) of this section. Fundamentally, all three concepts rely upon the performance of an hour of service to provide a starting point for crediting service. One purpose of these three concepts is to enable plans to satisfy the requirements of this section in a variety of ways.

(C) The fundamental rule with respect to these concepts is that any plan provision is permissible so long as it satisfies the minimum standards. Thus, for example, although the rules of this section provide that credit must begin on the employment commencement date, a plan is permitted to "adjust" the employment commencement date to reflect periods of time for which service is not required to be credited. Similarly, a plan may wish to credit service under the elapsed time method as discrete periods of service and provide for a reemployment commencement date. Certain plans may wish to provide for both concepts, although it is not a requirement of this section that plans so provide.

(iii) *Severance from service date.* Another fundamental concept of the elapsed time method of crediting service is the severance from service date, which is defined as the earlier of the date on which an employee quits, retires, is discharged or dies, or the first anniversary of the first date of absence for any other reason. One purpose of the severance from service date is to provide the endpoint for crediting service under the elapsed time method. As a general proposition, service is credited from the employment commencement date (i.e., the starting point) until the severance from service date (i.e., the endpoint). A complementary purpose of the severance from service date is to establish the starting point for measuring a period of severance from service in order to determine a "break in service" (see paragraph (a)(3)(v) of this section). A third purpose of such date is to establish the starting point for measuring the period of time which may be required to be taken into account under the service spanning rules (see paragraph (a)(3)(vi) of this section).

(iv) *Period of service.* A third elapsed time concept is the use of the "period of service" rather than the "year of service" in determining service to be taken into account for purposes of eligibility to participate, vesting and benefit accrual. For purposes of eligibility to participate and vesting, the period of service runs from the employment commencement date or reemployment commencement date until the severance from service date. For purposes of benefit accrual, a period of service runs from the date that a participant commences participation under the plan until the severance from service date. Because the endpoint of the period of service is marked by the severance from service date, an employee is credited with the period of time which runs during any absence from service (other than for reasons of a quit, retirement, discharge or death) which is 12 months or less. Thus, for example, a three week absence for vacation is taken into account as part of a period of service and does not trigger a severance from service date.

(v) *Period of severance.* A period of severance begins on the severance from service date and ends when an employee returns to service with the employer or employers maintaining the plan. The purpose of the period of severance is to apply the statutory "break in service" rules to an elapsed time method of crediting service.

(vi) *Service spanning.* Under the elapsed time method of crediting service, a plan is required to credit periods of service and, under the service spanning rules, certain periods of severance of 12 months or less for purposes of eligibility to participate and vesting. Under the first service spanning rule, if an employee severs from service as a result of quit, discharge or retirement and then returns to service within 12 months, the period of severance is required to be taken into account. However, a situation may arise in which an employee is absent from service for any reason other than quit, discharge, retirement or death and during the absence a quit, discharge or retirement occurs. The second service spanning rule provides in that set of circumstances that a plan is required to take into account the period of time between the severance from service date (i.e., the date of quit, discharge or retirement) and the first anniversary of the date on which the employee was first absent, if the employee returns to service on or before such first anniversary date.

(4) *Scope.* (i) Except for certain provisions for which the Secretary of Labor has been specifically authorized to prescribe regulations, regulations prescribed by the Secretary of the Treasury under section 410 and 411 of the Code shall, pursuant to section 3002(c) of the Act, implement the counterpart provisions of sections 202, 203 and 204 of the Act. Certain provisions for which the Secretary of Labor has been authorized to prescribe regulations relate to the methods for computing service to be credited to an employee, such as the calculation of an hour of service, year of service, year of participation and breaks in service, and such concepts are implemented in Part 2530. Accordingly, because elapsed time represents an alternative method of crediting service, this alternative method is set forth in Part 2530.

(ii) In order to clarify and illustrate the elapsed time method of crediting service, this section restates certain statutory provisions for which the Secretary of the Treasury has been authorized to prescribe regulations. In certain instances, as a result of the nature of the elapsed time method of crediting service, it has been necessary in this section to recast these concepts in a mode consistent with and solely for the purpose of using the elapsed time method. Thus, for example, due to the lack of computation periods under the elapsed time method of crediting service, a plan using elapsed time may disregard service for vesting purposes prior to the date an employee attains the age of 22, while under the general rule under section 203(b)(1)(A) of the Act, 411(a)(4)(A) of the Code and Treasury Department regulations under section 411(a) of the Code, contained in 26 CFR, a plan may disregard service for vesting computation periods prior to the vesting computation period during which

an employee attains the age of 22. Except as otherwise expressly provided in this section, the rules applicable to the general methods of crediting service are also applicable to the elapsed time method of crediting service.

(5) *Application of elapsed time method to sections 202, 203 or 204 of the Act and sections 410 and 411 of the Code.* (i) The substantive rules for crediting service under the elapsed time method with respect to eligibility to participate are contained in paragraph (c), the rules with respect to vesting are contained in paragraph (d), and the rules with respect to benefit accrual are contained in paragraph (e). The format of the rules is designed to enable a plan to use the elapsed time method of crediting service either for all purposes or for any one or combination of purposes under Part 2 of Title I of the Act and the counterpart provisions of the Code. Thus, for example, a plan may credit service for eligibility to participate purposes by the use of the general method of crediting service set forth in § 2530.200b–2 or by the use of any of the equivalencies set forth in § 2530.200b–3, while the plan may credit service for vesting and benefit accrual purposes by the use of the elapsed time method of crediting service.

(ii) A plan using the elapsed time method of crediting service for one or more classifications of employees covered under the plan may use the general method of crediting service set forth in § 2530.200b–2 or any of the equivalencies set forth in § 2530.200b–3 for other classifications of employees, provided that such classifications are reasonable and are consistently applied. Thus, for example, a plan may provide that part-time employees are credited under the general method of crediting service set forth in § 2530.200b–2 and full-time employees are credited under the elapsed time method. A classification, however, will not be deemed to be reasonable or consistently applied if such classification is designed with an intent to preclude an employee or employees from attaining his or her statutory entitlement with respect to eligibility to participate, vesting or benefit accrual. For example, a classification applied so that any employee credited with less than 1,000 hours of service during a given 12-consecutive-month period would be considered part-time and subject to the general method of crediting service rather than the elapsed time method would not be reasonable.

(iii) Notwithstanding paragraph (a) (5) (i) and (ii) of this section, the use of the elapsed time method for some purposes or the use of the elapsed time method for some employees may, under certain circumstances result in discrimination prohibited under section 401(a) (4) of the Code, even though the use of the elapsed time method for such purposes and for such employees is permitted under this section.

(b) *Definitions.* (1) *Employment commencement date.* For purposes of this section, the term "employment commencement date" shall mean the date on which the employee first performs an hour of service within the meaning of § 2530.200b–2(a) (1) for the employer or employers maintaining the plan.

(2) *Severance from service date.* For purposes of this section, a "severance from service" shall occur on the earlier of—

(i) The date on which an employee quits, retires is discharged or dies; or

(ii) The first anniversary of the first date of a period in which an employee remains absent from service (with or without pay) with the employer or employers maintaining the plan for any reason other than quit, retirement, discharge or death, such as vacation, holiday, sickness, disability, leave of absence or layoff.

(3) *Reemployment commencement date.* For purposes of this section, the term "reemployment commencement date" shall mean the first date, following a period of severance from service which is not required to be taken into account under the service spanning rules in paragraphs (c) (2) (iii) and (d) (1) (iii) of this section, on which the employee performs an hour of service within the meaning of paragraph § 2530.200b–2(a) (1) for the employer or employers maintaining the plan.

(4) *Participation commencement date.* For purposes of this section, the term "participation commencement date" shall mean the date a participant first commences participation under the plan.

(5) *Period of severance.* For purposes of this section, the term "period of severance" shall mean the period of time commencing on the severance from service date and ending on the date on which the employee again performs an hour of service within the meaning of § 2530.200 b–2(a) (1) for an employer or employers maintaining the plan.

(6) *Period of service.* (i) *General rule.* For purposes of this section, the term "period of service" shall mean a period of service commencing on the employee's employment commencement date or reemployment commencement date, whichever is applicable, and ending on the severance from service date.

(ii) *Aggregation rule.* Unless a plan provides in some manner for an "adjusted" employment commencement date or similar method of consolidating periods of service, periods of service shall be aggregated unless such periods may be disregarded under section 202(b) or 203(b) of the Act and section 410(a) (5) or 411(a) (4) of the Code.

(iii) *Other federal law.* Nothing in this section shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States or any rule or regulation issued under any such law. Thus, for example, nothing in this section shall be construed as denying an employee credit for a "period of service" if credit is required by separate federal law. Furthermore, the nature and extent of such credit shall be determined under such law.

(c) *Eligibility to participate.* (1) *General rule.* For purposes of section 202(a) (1) (A) of the Act and section 410(a) (1) (A) of the Code, a plan generally may not require as a condition of participation in the plan that an employee complete a period of service with the employer or employers maintaining the plan extending beyond the later of—

(i) The date on which the employee attains the age of 25; or

(ii) The date on which the employee completes a one-year period of service.

See regulations, relating to eligibility to participate rules (section 410(a) of the Code), prescribed by the Secretary of the Treasury in 26 CFR.

(2) *Determination of one-year period of service.* (i) For purposes of determining the date on which an employee satisfies the service requirement for initial eligibility to participate under the plan, a plan, using the elapsed time method of crediting service, shall provide that an employee who completes the 1-year period of service requirement on the first anniversary of his employment commencement date satisfies the minimum service requirement as of such date. In the case of an employee who fails to complete a one-year period of service on the first anniversary of his employment commencement date, a plan which does not contain a provision permitted by section 202(b) (4) of the Act and section 410(a) (5) (D) of the Code (rule of parity) shall provide for the aggregation of periods of service so that a one-year period of service shall be completed as of the date the employee completes 12 months of service (30 days are deemed to be a month in the case of the aggregation of fractional months) or 365 days of service.

(ii) For purposes of section 202(a) (1) (B) (i) of the Act and section 410(a) (1) (B) (i) of the Code, a "3-year period of service" shall be deemed to be "3 years of service."

(iii) *Service spanning rules.* In determining a 1-year period of service for purposes of initial eligibility to participate and a period of service for purposes of retention of eligibility to participate, in addition to taking into account an employee's period of service, a plan shall take into account the following periods of severance—

(A) If an employee severs from service by reason of a quit, discharge or retirement and the employee then performs an hour of service within the meaning of § 2530.200b–2(a) (1) within 12 months of the severance from service date, the plan is required to take into account the period of severance; and

(B) Notwithstanding paragraph (c) (2) (iii) (A) of this section, if an employee severs from service by reason of a quit, discharge or retirement during an absence from service of 12 months or less for any reason other than a quit, discharge, retirement or death, and then performs an hour of service within the meaning of § 2530.200b–2(a) (1) within 12 months of the date on which the employee was first absent from service, the plan is required to take into account the period of severance.

(iv) For purposes of determining an employee's retention of eligibility to participate in the plan, a plan shall take into

account an employee's entire period of service unless certain periods of service may be disregarded under section 202(b) of the Act and section 410(a)(5) of the Code.

(v) *Example.* Employee W, age 31, completed 6 months of service and was laid off. After 2 months of layoff, W quit. Five months later, W returned to service. For purposes of eligibility to participate, W was required to be credited with 13 months of service (8 months of service and 5 months of severance). If, on the other hand, W had not returned to service within the first 10 months of severance (i.e., within 12 months after the first day of layoff), W would be required to be credited with eight months of service.

(3) *Entry date requirements.* (i) *General rule.* For purposes of section 202(a)(4) of the Act and section 410(a)(4) of the Code, it is necessary for a plan to provide that any employee who has satisfied the minimum age and service requirements, and who is otherwise entitled to participate in the plan, commences participation in the plan no later than the earlier of—

(A) The first day of the first plan year beginning after the date on which such employee satisfied such requirements, or

(B) The date six months after the date on which he satisfied such requirements, unless such employee was separated from service before the date referred to in subparagraph (A) or (B), whichever is applicable.

(ii) *Separation from service.* (A) *Definition.* For purposes of this section, the term "separated from service" includes a severance from service or an absence from service for any reason other than a quit, discharge, retirement or death, regardless of the duration of such absence. Accordingly, if an employee is laid off for a period of six weeks, the employee shall be deemed to be "separated from service" during such period for purposes of the entry date requirements.

(B) *Application.* A period of severance which is taken into account under the service spanning rules in paragraph (c)(2)(iii) of this section or an absence of 12 months or less may result in an employee satisfying the plan's minimum service requirement during such period of time. In addition, once an employee satisfies the plan's minimum service requirement, either before or during such period of time, such period of time may contain an entry date applicable to such employee. In the case of an employee whose period of severance is taken into account and such period contains an entry date applicable to the employee, he or she shall be made a participant in the plan (if otherwise eligible) no later than the date on which he or she ended the period of severance. In the case of an employee whose period of absence contains an entry date applicable to such employee, he or she, no later than the date such absence ended, shall be made a participant in the plan (if otherwise eligible) as of the first applicable entry date which occurred during such absence from service.

(iii) *Examples.* For purposes of the following examples, assume that the plan provides for a minimum age requirement of 25 and a minimum service requirement of one year, and provides for semi-annual entry dates.

(A) Employee A, age 35, worked for 10 months in a job classification covered under the plan, became disabled for nine consecutive months and then returned to service. During the period of absence, A completed a 1-year period of service and passed a semi-annual entry date after satisfying the minimum service requirement. Accordingly, the plan is required to make A a participant no later than his return to service effective as of the applicable entry date.

(B) Employee B, after satisfying the minimum age and service requirements, quit work before the next semi-annual entry date, and then returned to service before incurring a 1-year period of severance, but after such semi-annual entry date. Employee B is entitled to become a participant immediately upon his return to service effective as of the date of his return.

See regulations, relating to eligibility to participate rules (Section 410(a) of the Code), prescribed by the Secretary of the Treasury in 26 CFR.

(4) *Break in service.* For purposes of applying the break in service rules under sections 202(b)(2) and (3) of the Act and sections 410(a)(5)(B) and (C) of the Code, the term "1-year period of severance" shall be substituted for the term "1-year break in service." A 1-year period of severance shall be determined on the basis of a 12-consecutive-month period beginning on the severance from service date and ending on the first anniversary of such date provided that the employee during such 12-consecutive-month period does not perform an hour of service within the meaning of § 2530.200b-2(a)(1) for the employer or employers maintaining the plan.

(5) *One-year hold-out.* (i) *General rule.* (A) For purposes of section 202(b)(3) of the Act and section 410(a)(5)(C) of the Code, in determining the period of service of an employee who has incurred a 1-year period of severance, a plan may disregard the employee's period of service before such period of severance until the employee completes a 1-year period of service after such period of severance.

(B) *Example.* Assume that a plan provides for a minimum service requirement of 1 year and provides for semi-annual entry dates, but does not contain the provisions permitted by section 202(b)(4) of the Act and section 410(a)(5)(D) of the Code (relating to the rule of parity). Employee G, age 40, completed a seven-month period of service, quit and then returned to service 15 months later, thereby incurring a 1-year period of severance. After working four months, G was laid off for nine months and then returned to work again. Although the plan may hold employee G out from participation in the plan until the completion of a 1-year period of service after the 1-year (or greater) period of severance, once the 1-year hold-out is completed the plan is required to provide the employee with such statutory entitlement as arose during the 1-year hold-out. Accordingly, employee G satisfied the 1-year of service requirement as of the first month of layoff, and G is entitled to become a participant in the plan immediately upon his return to service after the nine month layoff effective as of the first applicable entry date occurring after the date on which he satisfied the 1-year of service requirement (i.e., the first applicable entry date after the first month of layoff).

See regulations, relating to eligibility to participate rules (Section 410(a) of the Code), prescribed by the Secretary of the Treasury in 26 CFR.

(6) *Rule of parity.* (i) *General rule.* For purposes of section 202(b)(4) of the Act and section 410(a)(5)(D) of the Code, in the case of a participant who does not have any nonforfeitable right under the plan to his accrued benefit derived from employer contributions and who incurs a 1-year period of severance, a plan, in determining an employee's period of service for purposes of section 202(a)(1) of the Act and section 410(a)(1) of the Code, may disregard his period of service if his latest period of severance equals or exceeds his prior period of service, whether or not consecutive, completed before such period of severance.

(ii) In determining whether a completely nonvested employee's service may be disregarded under the rule of parity, a plan is not permitted to apply the rule until the employee incurs a 1-year period of severance. Accordingly, a plan may not disregard a period of service of less than one year until an employee has incurred a period of severance of at least one year.

(iii) *Example.* Assume that a plan provides for a minimum service requirement of one year and provides for the rule of parity. An employee works for three months, quits and then is rehired 10 months later. Such employee is entitled to receive 13 months of credit for purposes of eligibility to participate and vesting (see service spanning rules). Although the period of severance exceeded the period of service, the three months of service may not be disregarded because no 1-year period of severance occurred.

See regulations, relating to eligibility to participate rules (Section 410(a) of the Code), prescribed by the Secretary of the Treasury in 26 CFR.

(d) *Vesting.* (1) *General rule.* (i) For purposes of section 203(a)(2) of the Act and section 411(a)(2) of the Code, relating to vesting in accrued benefits derived from employer contributions, a plan, which determines service to be taken in account on the basis of elapsed time, shall provide that an employee is credited with a number of years of service equal to at least the number of whole years of the employee's period of service, whether or not such periods of service were completed consecutively.

(ii) In order to determine the number of whole years of an employee's period

of service, a plan shall provide that nonsuccessive periods of service must be aggregated and that less than whole year periods of service (whether or not consecutive) must be aggregated on the basis that 12 months of service (30 days are deemed to be a month in the case of the aggregation of fractional months) or 365 days of service equal a whole year of service.

(iii) *Service spanning rules.* In determining a participant's period of service for vesting purposes, a plan shall take into account the following periods of severance—

(A) If an emloyee severs from service by reason of a quit, discharge or retirement and the employee then performs an hour of service within the meaning of § 2530.200b–2(a) (1) within 12 months of the severance from service date, the plan is required to take into account the period of severance; and

(B) Notwithstanding subparagraph (d) (1) (iii) (A) of this section, if an employee severs from service by reason of a quit, discharge or retirement during an absence from service of 12 months or less for any reason other than a quit, discharge, retirement or death, and then performs an hour of service within the meaning of § 2530.200b–2(a) (1) within 12 months of the date on which the employee was first absent from service, the plan is required to take into account the period of severance.

(iv) For purposes of determining an employee's nonforfeitable percentage of accrued benefits derived from employer contributions, a plan, after calculating an employee's period of service in the manner prescribed in this paragraph, may disregard any remaining less than whole year, 12-month or 365-day period of service. Thus, for example, if a plan provides for the statutory five to fifteen year graded vesting, an employee with a period (or periods) of service which yield 5 whole year periods of service and an additional 321-day period of service is twenty-five percent vested in his or her employer-derived accrued benefits (based solely on the 5 whole year periods of service).

(2) *Service which may be disregarded.* (i) For purposes of section 203(b) (1) of the Act and section 411(a) (4) of the Code, in determining the nonforfeitable percentage of an employee's right to his or her accrued benefits derived from employer contributions, all of an employee's period or periods of service with an employer or employers maintaining the plan shall be taken into account unless such service may be disregarded under paragraph (d) (2) (ii) of this section.

(ii) For purposes of paragraph (d) (2) (i) of this section, the following periods of service may be disregarded—

(A) The period of service completed by an employee before the date on which he attains age 22;

(B) In the case of a plan which requires mandatory employee contributions, the period of service which falls within the period of time to which a particular employee contribution relates if the employee had the opportunity to make a contribution for such period of time and failed to do so;

(C) The period of service during any period for which the employer did not maintain the plan or a predecessor plan;

(D) The period of service which is not required to be taken into account by reason of a period of severance which constitutes a break in service within the meaning of paragraph (d) (4) of this section;

(E) The period of service completed by an employee prior to January 1, 1971, unless the employee completes a period of service of at least 3 years at any time after December 31, 1970; and

(F) The period of service completed before the first plan year for which this section applies to the plan, if such service would have been disregarded under the plan rules relating to breaks in service.

See regulations, relating to service which may be disregarded (Section 411 (a) of the Code), prescribed by the Secretary of the Treasury in 26 CFR.

(3) *Seasonal industry.* (Reserved.)

(4) *Break in service.* For purposes of applying the break in service rules, the term "1-year period of severance" shall be substituted for the term "1-year break in service." A 1-year period of severance shall be a 12-consecutive-month period beginning on the severance from service date and ending on the first anniversary of such date, provided that the employee during such 12-consecutive-month period fails to perform an hour of service within the meaning of § 2530.200b–2(a) (1) for an employer or employers maintaining the plan.

(5) *One-year hold-out.* For purposes of section 203(b) (3) (B) of the Act and section 411(a) (6) (B) of the Code, in determining the nonforfeitable percentage of the right to accrued benefits derived from employer contributions of an employee who has incurred a 1-year period of severance, the period of service completed before such period of severance is not required to be taken into account until the employee has completed a 1-year period of service after his return to service.

See regulations, relating to vesting rules (Section 411(a) of the Code, prescribed by the Secretary of the Treasury under 26 CFR.

(6) *Vesting in pre-break accruals.* For purposes of section 203(b) (3) (C) of the Act and section 411(a) (6) (C) of the Code, a "1-year period of severance" shall be deemed to constitute a "1-year break in service."

See regulations, relating to vesting rules (Section 411(a) of the Code), prescribed by the Secretary of the Treasury under 26 CFR.

(7) *Rule or parity.* (i) *General rule.* For purposes of section 203(b) (3) (D) of the Act and section 411(a) (6) (D) of the Code, in the case of an employee who is a nonvested participant in employer-derived benefits at the time he incurs a 1-year period of severance, the period of service completed by such participant before such period of severance is not required to be taken into account for purposes of determining the vested percentage of his or her right to employer-derived benefits if at such time the consecutive period of severance equals or exceeds his prior period of service, whether or not consecutive, completed before such period of severance.

See regulations, relating to vesting rules (Section 411(a) of the Code), prescribed by the Secretary of Treasury under 26 CFR.

(e) *Benefit accrual.* (1) For purposes of section 204 of the Act and section 411 (b) of the Code, a plan may provide that a participant's service with an employer or employers maintaining the plan be determined on the basis of the participant's total period of service beginning on the participation commencement date and ending on the severance from service date.

(2) Under section 204(b) (3) (A) of the Act and section 411(b) (3) (A) of the Code, a defined benefit pension plan may determine an employee's service for purposes of benefit accrual on any basis which is reasonable and consistent and which takes into account all service during the employee's participation in the plan which is included in a period of service required to be taken into account under section 202(b) of the Act and section 410(a) of the Code (relating to service which must be taken into account for purposes of determining an employee's eligibility to participate). A plan which provides for the determination of an employee's service with an employer or employers maintaining the plan on the basis permitted under paragraph (e) (1) of this section will be deemed to meet the requirements of section 204(b) (3) (A) of the Act and section 411(b) (3) (A) of the Code, provided that the plan meets the requirements of § 2530.204–3, relating to plans which determine an employee's service for purposes of benefit accrual on a basis other than computation periods. Specifically, under § 2530.204–3, it must be possible to prove that, despite the fact that benefit accrual under such a plan is not based on computation periods, the plan's provisions meet at least one of the three benefit accrual rules of section 204(b) (1) of the Act and section 411(b) (1) of the Code under all circumstances. Further, § 2530.204–3 prohibits such a plan from disregarding service under section 204(b) (3) (C) of the Act and section 411 (b) (3) (C) of the Code (which would, otherwise permit a plan to disregard service performed by an employee during a computation period in which the employee is credited with less than 1,000 hours).

See regulations, relating to benefit accrual rules, (Section 411(b) of the Code), prescribed by the Secretary of the Treasury under 26 CFR.

(f) *Transfers between methods of crediting service.*

(1) *Single plan.* A plan may provide that an employee's service for purposes of eligibility to participate, vesting or benefit accrual shall be determined on the basis of computation periods under the general method set forth in § 2530.-200b–1 for certain classes of employees but under the alternative method per-

mitted under this section for other clases of employees if the plan provides as follows—

(i) In the case of an employee who transfers from a class of employees whose service is determined on the basis of computation periods to a class of employees whose service is determined on the alternative basis permitted under this section, the employee shall receive credit, as of the date of the transfer, for a period of service consisting of—

(A) A number of years equal to the number of years of service credited to the employee before the computation period during which the transfer occurs; and

(B) The greater of (1) the period of time beginning on the first day of the computation period during which the transfer occurs and ending on the date of such transfer or (2) the service taken into account under the computation periods method as of the date of the transfer.

If the period of service for which an employee receives credit under this paragraph (f)(1)(i) consists of the total of the periods of service determined under paragraph (f)(1)(i)(A) plus paragraph (f)(1)(i)(B)(1) of this section, the employee shall receive credit for service subsequent to the transfer commencing on the date the transfer occurs. If such period of service consists of the total of the amounts of service determined under paragraph (f)(1)(i)(A) plus paragraph (f)(1)(i)(B)(2) of this section, the employee shall receive credit for service subsequent to the transfer commencing on the day after the last day of the computation during which the transfer occurred.

(ii) In the case of an employee who transfers from a class of employees whose service is determined on the alternative basis permitted under this section to a class of employees whose service is determined on the basis of computation periods—

(A) The employee shall receive credit, as of the date of the transfer, for a number of years of service equal to the number of 1-year periods of service credited to the employee as of the date of the transfer, and

(B) The employee shall receive credit in the computation period which includes the date of the transfer, for a number of hours of service determined by applying one of the equivalencies set forth in § 2530.200b–4(e)(1) to any fractional part of a year credited to the employee under this section as of the date of the transfer. Such equivalency shall be set forth in the plan and shall apply to all similarly situated employees.

(2) *More than one plan.* In the case of an employee who transfers from a plan using either the general method of determining service on the basis of computation periods set forth in § 2530.200b–1 or the method of determining service permitted under this section to a plan using the other method of determining service, all service required to be credited under the plan to which the employee transfers shall be determined under the method of determining service used by such plan. Accordingly, to the extent that service credited to the employee under the plan from which he or she transfers must also be credited to the employee under the plan to which he or she transfers, such service must be redetermined under the latter plan.

(g) *Amendments to change method of crediting service.* A plan may be amended to change the method of crediting service for any purpose or for any class of employees between the general method set forth in § 2530.200b–1 and the method permitted under this section, if such amendment contains provisions under which each employee with respect to whom the method of crediting service is changed is treated in the same manner as an employee who transfers from one class of employees to another under paragraph (f)(1) of this section.

§ 2530.201–1 Coverage; general.

Coverage of the provisions of Part 2 of Title I of the Act is determined under a multiple step process. First, the plan must be an employee benefit plan as defined under section 3(3) of the Act and § 2510.3–3. (See also the definitions of employee welfare benefit plan, section 3(1) of the Act and § 2510.3–1 and employee pension benefit plan, section 3(2) of the Act and § 2510.3–2). Second, the employee benefit plan must be subject to Title I of the Act. Coverage for Title I is specified in section 4 of the Act. Third, section 201 of the Act specifies the employee benefit plans subject to Title I which are not subject to the minimum standards of Part 2 of Title I of the Act. Section 2530.201–2 specifies the employee benefit plans subject to Title I of the Act which are exempted from coverage under Part 2 of Title I of the Act and this Part (2530).

§ 2530.201–2 Plans covered by part 2530.

This part (2530) shall apply to any employee benefit plan described in section 4(a) of the Act (and not exempted under section 4(b)) other than—

(a) An employee welfare benefit plan as defined in section 3(1) of the Act and § 2510.3–1;

(b) A plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees;

(1) (Reserved.)

(2) (Reserved.)

(c) A plan established and maintained by a society, order, or association described in section 501(c)(8) or (9) of the Code, if no part of the contributions to or under such plan are made by employers of participants in such plan;

(d) A trust described in section 501(c)(18) of the Code;

(e) A plan which is established and maintained by a labor organization described in section 501(c)(5) of the Code and which does not at any time after the date of enactment of the Act provide for employer contributions;

(f) Any agreement providing payments to a retired partner or a deceased partner's successor in interest, as described in section 736 of the Code;

(g) An individual retirement account or annuity described in section 408 of the Code, or a retirement bond described in section 409 of the Code;

(h) An excess benefit plan as described in section 3(36) of the Act.

Subpart B—Participation, Vesting and Benefit Accrual

§ 2530.202–1 Eligibility to participate; general.

(a) Section 202 of the Act and section 410 of the Code contain minimum participation standards relating to certain employee pension benefit plans. In general, an employee pension benefit plan may not require, as a condition of participation in the plan, that an employee complete a period of service with the employer or employers maintaining the plan in excess of limits established by of the Code and the regulations issued plan in excess of limits established by section 202 of the Act and section 410 of the Code and the regulations issued thereunder. Service for this purpose is measured in units of years of service. Section 2530.202–2 sets forth rules relating to the computation periods which a plan must use to determine whether an employee has completed a year of service for purposes of eligibility to participate ("eligibility computation periods").

(b) For rules relating to service with the employer or employers maintaining the plan, see § 2530.210.

§ 2530.202–2 Eligibility computation period.

(a) *Initial eligibility computation period.* For purposes of section 202(a)(1)(A)(ii) of the Act and section 410(a)(1)(A)(ii) of the Code, the initial eligibility computation period the plan must use is the 12-consecutive-month period beginning on the employment commencement date. An employee's employment commencement date is the first day for which the employee is entitled to be credited with an hour of service described in § 2530.200b–2(a)(1) for an employer maintaining the plan. (For establishment of a reemployment commencement date following a break in service, see § 2530.200b–4(b)(1)(iii) and (iv)).

(b) *Eligibility computation periods after the initial eligibility computation period.* In measuring years of service for purposes of eligibility to participate after the initial eligibility computation period, a plan may adopt either of the following alternatives:

(1) A plan may designate 12-consecutive-month periods beginning on the first anniversary of an employee's employment commencement date and succeeding anniversaries thereof as the eligibility computation period after the initial eligibility computation period; or

(2) A plan may designate plan years beginning with the plan year which includes the first anniversary of an employee's employment commencement date as the eligibility computation period

after the initial eligibility computation period (without regard to whether the employee is entitled to be credited with 1000 hours of service during such period), provided that an employee who is credited with 1000 hours of service in both the initial eligibility computation period and the plan year which includes the first anniversary of the employee's employment commencement date is credited with two years of service for purposes of eligibility to participate.

(c) *Service prior to a break in service.* For purposes of applying section 202(b)(4) of the Act and section 410(a)(5)(D) of the Code (relating to years of service completed prior to a break in service for purposes of eligibility to participate), the computation periods used by a plan in determining years of service before such break shall be the eligibility computation periods established in accordance with paragraphs (a) and (b) of this section.

(d) *Plans with three-year 100 percent vesting.* A plan which, under 202(a)(1)(B)(i) o fthe Act and section 410a(1)(B)(i) of the Code, requires more than one year of service for eligibility to participate in the plan shall use an initial eligibility computation period established under paragraph (a) of this section and eligibility computation periods designated in accordance with paragraph (b) of this section. Thus, for the eligibility computation period after the initial eligibility computation period, such a plan may designate either eligibility computation periods beginning on anniversaries of an employee's employment commencement date or plan years beginning with the plan year which includes the anniversary of the first day of the initial eligibility computation period.

(e) *Alternative eligibility computation period.* The following rule is designed primarily for a plan using a recordkeeping system which does not permit the plan to identify an employee's employment commencement date (or, in the case of an employee who has incurred a one-year break in service, the employee's reemployment commencement date), but which does permit the plan to identify a period of no more than 31 days during which the employee's employment commencement date (or reemployment commencement date) occurred.

(1) A plan may use an initial eligibility computation period (or initial computation period for measuring completion of a year of service upon an employee's return after a one-year break in service) beginning on the first day of a period of no more than 31 days during which an employee's employment commencement date (or reemployment commencement date) occurs and ending on the anniversary of the last day of such period.

(2) If a plan uses an initial eligibility computation period (or initial computation period for measuring completion of a year of service upon an employee's return after a one-year break in service) permitted under paragraph (e)(1) of this section, the plan shall use the following computation periods after the initial computation period:

(i) If the plan does not use plan years for computation periods after the initial computation period, the plan shall use computation periods beginning on anniversaries of the first day of the initial computation period and ending on anniversaries of the last day of the initial computation period, and including a period of at least 12 consecutive months.

(ii) If the plan uses plan years for computation periods after the initial computation period, the plan shall use plan years beginning with the plan year which includes the anniversary of the first day of the initial computation period.

(3) For purposes of determining an employee's commencement of participation under section 202(a)(4) of the Act and section 410(a)(4) of the Code, regardless of whether an eligibility computation period permitted under this paragraph includes a period longer than 12 consecutive months, an employee who completes 1000 hours of service in such eligibility computation period shall be treated as having satisfied the plan's service requirement for eligibility to participate as of the last day of the 12-consecutive-month period beginning on the first day of such eligibility computation period. In the case of a plan described in section 202(a)(1)(B)(i) of the Act and section 410(a)(1)(B)(i) of the Code, the requirement of the preceding sentence shall apply only with respect to the last year of service required under the plan for eligibility to participate.

(4) *Example.* A plan maintained by Employer X obtains records from X which indicate the number of hours worked by an employee during a monthly payroll period. The records do not, however, break down the number of hours worked by an employee by days. Thus, after a new employee has begun employment with X it is impossible for the plan to ascertain the employee's employment commencement date from the records furnished by X (although it is possible for the plan to determine the month during which an employee's employment commencement date occurred). For administrative convenience, in conjunction with the equivalency based on hours worked permitted under § 2530.200b-3(d)(1), and with the method of crediting hours of service to computation periods set forth in § 2530.200b-2(c)(4), the plan uses the alternative initial eligibility computation period permitted under this paragraph. The plan provides that an employee's initial eligibility computation period shall be the period beginning on the first day of the first monthly payroll period for which the employee is entitled to credit for the performance of duties and ending on the last day of the monthly payroll period which includes the anniversary of the last day of the initial monthly payroll period. This condition ensures that the initial eligibility computation period will include the 12-consecutive-month period beginning on the employee's employment commencement date and ending on the day before the anniversary of the employee's employment commencement date. If, however, an employee completes the plan's requirement of one year of service for eligibility to participate (i.e., completion of 870 hours worked in an eligibility computation period) in the initial eligibility computation period, the plan provides that the employee is deemed to have satisfied the plan's service requirements for eligibility to participate as of the day before the anniversary of the first day of the initial eligibility computation period. This provision ensures that no employee who has in fact completed 1000 hours of service in the 12-consecutive-month period beginning on the employee's employment commencement date will be admitted to participation later than the date specified under section 202(a)(4) of the Act and section 410(a)(4) of the Code. For example, in the case of an employee who begins employment in January, 1977, the employee's initial eligibility computation period begins on January 1, 1977 and ends on January 31, 1978. If the employee completes 879 hours worked in the initial eligibility computation period, the employee is treated as having met the plan's service requirements for eligibility to participate as of December 31, 1977. If the plan provides for semi-annual entry dates of January 1 and July 1, and the employee has met any eligibility requirements of the plan other than the minimum service requirement as of December 31, 1977, the plan must provide that the employee commences participation as of January 1, 1978.

§ 2530.203-1 Vesting; general.

(a) Section 203 of the Act and section 411(a) of the Code contain minimum vesting standards relating to certain employee pension benefit plans. In general, a pension plan subject to section 203 of the Act or section 411(a) of the Code must meet certain requirements relating to an employee's nonforfeitable ("vested") right to his or her normal retirement benefit. One of these requirements specifies that an employee's accrued benefit derived from employer contributions must be vested in accordance with certain schedules. The schedules (or alternative minimum vesting standards) are generally based on the employee's number of years of service with the employer or employers maintaining the plan. Section 2530.203-2 sets forth rules relating to the computation periods used to determine whether an employee has completed a year of service for vesting purposes ("vesting computation periods").

(b) For rules relating to service with the employer or employers maintaining the plan, *see* § 2530.210.

§ 2530.203-2 Vesting computation period.

(a) *Designation of vesting computation periods.* Except as provided in paragraph (b) of this section, a plan may designate any 12-consecutive-month period as the vesting computation period. The period so designated must apply equally to all participants. This requirement may be satisfied even though the actual 12-consecutive-month periods are not the same for all employees (e.g., if the designated vesting computation period is the 12-consecutive-month period

beginning on an employee's employment commencement date and anniversaries of that date). The plan is prohibited, however, from using any period that would result in artificial postponement of vesting credit, such as a period measured by anniversaries of the date four months following the employment commencement date.

(b) *Plans with 3-year 100 percent vesting.* For rules regarding when a participant has a nonforfeitable right to his accrued benefit, see section 202(a)(1)(B)(i) of the Act and 410(a)(1)(B)(i) of the Code and regulations issued thereunder.

(c) *Amendments to change the vesting computation period.* (1) A plan may be amended to change the vesting computation period to a different 12-consecutive-month period provided that as a result of such change no employee's vested percentage of the accrued benefit derived from employer contributions is less on any date after such change than such vested percentage would be in the absence of such change. A plan amendment changing the vesting computation period shall be deemed to comply with the requirements of this subparagraph if the first vesting computation period established under such amendment begins before the last day of the preceding vesting computation period and an employee who is credited with 1,000 hours of service in both the vesting computation period under the plan before the amendment and the first vesting computation period under the plan as amended is credited with 2 years of service for those vesting computation periods. For example, a plan which has been using a calendar year vesting computation period is amended to provide for a July 1–June 30 vesting computation period starting in 1977. Employees who complete more than 1,000 hours of service in both of the 12-month periods extending from January 1, 1977 to December 31, 1977 and from July 1, 1977 to June 30, 1978 are advanced two years on the plan's vesting schedule. The plan is deemed to meet the requirements of this subparagraph.

(2) For additional requirements pertaining to changes in the vesting schedule, see section 203(c)(1) of the Act and section 411(a)(10) of the Code and the regulations issued thereunder.

(d) *Service preceding a break in service.* For purposes of applying section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code, (relating to counting years of service before a break in service for vesting purposes), the computation periods used by the plan in computing years of service before such break must be the vesting computation periods. (For application of the break in service rules, see section 203(b)(3)(D) and section 411(a)(6)(D) of the Code and regulations issued thereunder.)

§ 2530.203–3 Suspension of Benefits upon Reemployment of Retirees. [Reserved]

§ 2530.204–1 Year of participation for benefit accrual.

(a) *General.* Section 204(b)(1) of the Act and section 411(b)(1) of the Code contain certain requirements relating to benefit accrual under a defined benefit pension plan. Some of these requirements are based on the number of years of participation included in an employee's period of service. Paragraph (b) of this section relates to service which must be taken into account in determining an employee's period of service for purposes of benefit accrual. Section 2530.204–2 sets forth rules relating to the computation periods to be used in measuring years of participation for benefit accrual ("accrual computation periods").

(b) *Service which may be disregarded for purposes of benefit accrual.* (1) In calculating an employee's period of service for purposes of benefit accrual under a defined benefit pension plan, section 204(b)(3) of the Act and section 411(b)(3) of the Code permit the following service to be disregarded: service before an employee first becomes a participant in the plan; service which is not required to be taken into account under section 202(b) of the Act and section 410(b)(5) of the Code (relating to one-year breaks in service for purposes of eligibility to participate); and service which is not required to be taken into account under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code (relating to 12-consecutive-month periods during which an employee's service is less than 1000 hours). In addition, in calculating an employee's period of service for purposes of benefit accrual, a defined benefit plan shall not be required to take into account service before the conclusion of a series of consecutive 1-year breaks in service occurs which permits a plan to disregard prior service under section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code.

(2) *Example.* The following example illustrates paragraph (b)(1) of this section. A plan has a calendar year vesting and accrual computation period and, under § 2530.202–2 (a) and (b)(1), uses eligibility computation periods beginning on an employee's employment commencement date and anniversaries thereof. The plan provides that an employee who has at least 10 years of service has a vested right to 100 percent of his accrued benefit derived from employer contributions. The plan provides that an employee who is credited with at least 1,000 hours of service in a calendar year accrual computation period is credited with at least partial year of participation for purposes of benefit accrual. An employee whose birthday is October 16, 1956, begins employment with an employer maintaining the plan on January 1, 1977. Under § 2530.202–2(a)(1), January 1, 1977 is the employee's employment commencement date and the calendar year 1977 is the employee's initial eligibility computation period. The employee completes at least 1,000 hours of service in each of the calendar years from 1977 through 1981. On January 1, 1982 the employee is admitted to participation in the plan, having met the plan's age requirement (25 years) and service requirement (one year of service) for eligibility to participate. In 1982, the employee is credited with the number of hours of service required for a full year of participation (i.e., more than 1,000 hours of service). Under § 2530.202–2(c), for purposes of applying section 202(b)(4) of the Act and section 410(a)(5)(D) of the Code (relating to years of service completed before a break in service for purposes of eligibility to participate), eligibility computation periods beginning on the employee's employment commencement date and anniversaries thereof are used under the plan to measure service prior to a break in service (in addition, under § 2530.200b–4(a)(2), the same eligibility computation periods are used in measuring one-year breaks in service for purposes of eligibility to participate). Thus, as of January 1, 1983, the employee is credited with six years of service for purposes of eligibility to participate and is credited with one year of participation. In accordance with section 203(b)(1)(A) of the Act and section 411(a)(4)(A) of the Code, the plan provides that years of service completed before age 22 are disregarded for purposes of vesting. As of January 1, 1983, therefore, the employee is credited with four years of service for purposes of vesting. In 1983 the employee terminates employment with the employer, incurring one-year breaks in service in each of the calendar years from 1983 through 1986. As of December 31, 1986, the employee's consecutive one-year breaks in service equal the employee's four years of service for vesting before such breaks. Under section 203(b)(3)(D) of the Act and section 410(a)(5)(D) of the Code and the terms of the plan, the four years of service for vesting completed by the employee before his four consecutive one-year breaks in service are not taken into account for purposes of vesting. Under paragraph (b)(1) of this section, therefore, in calculating the employee's period of service for purposes of benefit accrual, the plan may disregard the year of participation completed by the employee before his four consecutive one-year breaks in service for vesting, because the four consecutive one-year breaks in service equal the four years of service credited to the employee for vesting. The employee is re-employed by the employer on January 1, 1987 completing an hour of service on that date. Under § 2530.200b–4(b)(1), therefore, January 1, 1987 is the employee's reemployment commencement date. In 1987, the employee completes the number of hours of service required for a full year of participation (i.e., more than 1,000 hours of service). For 1987, therefore, the employee is credited with a year of service for purposes of eligibility to participate and vesting, and with a year of participation. As of December 31, 1987, the employee is credited with one year of service for purposes of vesting, since service before the employee's four consecutive one-year breaks in service—including the year of service completed in 1982—is not taken into account. Because under paragraph (b)(1) of this section, the year of participation credited to the employee for 1982 is not required to be taken into account for purposes of benefit accrual, the

employee is credited with one year of participation as of December 31, 1987.

§ 2530.204–2 Accrual computation period.

(a) *Designation of accrual computation periods.* A plan may designate any 12-consecutive-month period as the accrual computation period except that the period so designated must apply equally to all participants. This requirement may be satisfied even though the actual time periods are not the same for all participants. For example, the accrual computation period may be designated as the vesting computation period, the plan year, or the 12-consecutive-month period beginning on either of two semiannual dates designated for entry to participation under a plan.

(b) *Participation prior to effective date.* For purposes of applying the accrual rules of section 204(b) (1) (D) of the Act and section 411(b) (1) (D) of the Code (relating to accrual requirements for defined benefit plans for periods prior to the effective date of those sections), all service from the date of participation in the plan, as determined in accordance with applicable plan provisions, shall be taken into account in determining an employee's period of service. When the plan documents do not provide a definite means for determining the date of commencement of participation, the date of commencement of employment covered under the plan during the period that the employer maintained the plan shall be presumed to be the date of commencement of participation in the plan. The plan may rebut this presumption by demonstrating from circumstances surrounding the operation of the plan, such as the date of commencement of mandatory employee contributions, that participation actually began on a later date.

(c) *Partial year of participation.* (1) Under section 204(b) (3) (C) of the Act and section 411(b) (3) (C) of the Code, in calculating an employee's period of service for purposes of benefit accrual, a plan is not required to take into account a 12-consecutive-month period during which the employee's service is less than 1000 hours of service. In measuring an employee's service for purposes of section 204(b) (3) (C) of the Act and section 411(b) (3) (C) of the Code, a plan shall use the accrual computation period designated under paragraph (a) of this section. Under section 204(b) (3) (B) of the Act and section 411(b) (3) (B) of the Code, in the case of an employee whose service is not less than 1,000 hours of service during an accrual computation period, the calculation of such employee's period of service will not be treated as made on a reasonable and consistent basis unless service during such computation period is taken into account. To the extent that the employee's service during the accrual computation period is less than the service required under the plan for a full year of participation, the employee must be credited with a partial year of participation equivalent to no less than a ratable portion of a full year of participation.

(2) For purposes of calculating the portion of a full year of participation to be credited to an employee whose service during a computation period is not less than 1,000 hours of service but is less than service required for a full year of participation in the plan, the plan may credit the employee with a greater portion of a full year of participation than a ratable portion, or may credit an employee with a full year of participation even though the employee's service is less than the service required for a full year of participation, provided that such crediting is reasonable and is consistent for all employees within the same job classifications, reasonably established.

(3) In the case of an employee who commences participation in a plan (or recommences participation in the plan upon the employee's return after one or more 1-year breaks in service) on a date other than the first day of an applicable accrual computation period, all hours of service required to be credited to the employee during the entire accrual computation period, including hours of service credited to the employee for the portion of the computation period before the date on which the employee commences (or recommences) participation, shall be taken into account in determining whether the employee has 1,000 or more hours of service for purposes of section 204(b) (3) (C) of the Act and section 411 (b) (3) (C) of the Code. If such employee's service is not less than 1,000 hours in such accrual computation period, the employee must be credited with a partial year of participation which is equivalent to no less than a ratable portion of a full year of participation for service credited to the employee for the portion of the computation period after the date of commencement (or recommencement) of participation.

(4) Examples. The following are examples of reasonable and consistent methods for crediting partial years of participation:

(i) A plan requires 2,000 hours of service for a full year of participation. An employee who is credited during a computation period with no less than 1,000 hours of service but less than 2,000 hours of service is credited with a partial year of participation equal to a portion of a full year of participation determined by dividing the number of hours of service credited to the employee by 2,000.

(ii) A plan requires 2,000 hours of service for a full year of participation. The plan credits service in an accrual computation period in accordance with the following table:

Hours of service credited:	*Percentage of full year of participation credited*
1000	50
1001 to 1200	60
1201 to 1400	70
1401 to 1600	80
1601 to 1800	90
1801 and above	100

Under this method of crediting partial years of participation, each employee who is credited with not less than 1,000 hours of service is credited with at least a ratable portion of a full year of participation.

(iii) A plan provides that each employee who is credited with at least 1,000 hours of service in an accrual computation period must receive credit for at least a partial year of participation for that computation period. For full accrual, however, the plan requires that an employee must be credited with a specified number of hours worked; employees who meet the 1,000 hours of service requirement but who are not credited with the specified number of hours worked required for a full year of participation are credited with a partial year of participation on a prorata basis. For example, if the plan requires 1,500 hours worked for full accrual, an employee with 1,500 hours worked would be credited with full accrual, but an employee with 1,000 hours worked and 500 other hours of service would be credited with ⅔ of full accrual. The plan's method of crediting service for accrual purposes is consistent with the requirements of this paragraph. It should be noted, however, that use of hours worked as a basis for prorating benefit accrual may result in discrimination prohibited under section 401(a) (4) of the Code.

(iv) Employee A is employed on June 1, 1980 in service covered by a plan with a calendar year accrual computation period, and which requires 1,800 hours of service for a full accrual. Employee A completes 500 hours from June 1, 1980 to December 31, 1980, and completes 100 hours per month in each month during 1981. A is admitted to participation on July 1, 1981. A is credited with 1,200 hours of service for the accrual computation period beginning January 1, 1981. Under the rules set forth in paragraph (c) (3) of this section, A is required to be credited with not less than one-third of a full accrual (600 hours divided by 1,800 hours).

(d) *Prohibited double proration.* (1) In the case of a defined benefit plan that (i) defines benefits on a basis which has the effect of prorating benefits to reflect less than full-time employment or less than maximum compensation and (ii) does not adjust less-than-full-time service to reflect the equivalent of full-time hours or compensation (as the case may be), the plan may not further prorate benefit accrual under section 204(b) (3) (B) of the Act and section 411(b) (3) (B) of the Code by crediting less than full years of participation, as would otherwise be permitted under paragraph (c) of this section. These plans must credit, except when service may be disregarded under section 204(b) (3) (C) of the Act and section 411(b) (3) (C) of the Code (relating to less than 1000 hours of service), less-than-full-time employees with a full year of participation for the purpose of accrual of benefits.

(2) *Examples.* (i) A plan's defined benefit formula provides that the annual retirement benefit shall be 2 percent of the average compensation in all years of participation multiplied by the number of years of participation. Employee A is a full-time employee who has completed 2,000 hours during each of 20 accrual computation periods. A's average hourly rate was $5 an hour. Thus, A's average

compensation for each year during participation in the plan is $10,000 ($5 per hour multiplied by 2,000 hours). If the plan states that a full year of participation is 2,000 hours, then A's annual retirement benefits, if he retired at that time, would be $4,000 ($10,000 per year of compensation ×.02×20 years of participation). Employee B, however, is a part-time employee who completes 1,000 hours of service during each of 20 accrual computation periods. Like A, B's average hourly rate is $5 per hour. B's average compensation for his total years of participation is $5,000 ($5 per hour multiplied by 1,000 hours). Thus, the plan's benefit formula, by basing benefits on an employee's average compensation in all years of participation, in effect prorates benefits to reflect the fact that during B's participation in the plan, he has earned less than the maximum compensation that a full-time employee paid at the same rate could earn during the same period of participation in the plan. Under the rule of subparagraph (1), therefore, the plan is not permitted to prorate B's years of participation to reflect B's less than full-time employment throughout his participation in the plan. Therefore, B's annual retirement benefit would be $2,000 ($5,000 average compensation ×.02×20 years of participation). (If double proration were permitted, then B's total years of participation would be only 10 since he would be credited with only one-half of a year of participation during each of the accrual computation periods (1,000/2,000). Thus, B's annual retirement benefit would be $1,000—i.e., $5,000 average compensation ×.02×10 years of participation.)

(ii) If the plan adjusts the average compensation during plan participation to reflect full compensation, then the plan may prorate years of participation. Thus, the average full annual compensation for B would be $10,000 rather than the $5,000 actually paid. Employee B's annual retirement benefit would then be $2,000 ($10,000 average full compensation × .02 × 10 years of participation).

(e) *Amendments to change accrual computation periods.* (1) A plan may be amended to change the accrual computation period to a different 12-consecutive-month period, provided that the period between the end of the last accrual computation period under the plan as in effect before such amendment and the beginning of the first accrual computation period under the plan as amended is treated as a partial accrual computation period in accordance with the rules set forth in subparagraph (2) of this paragraph.

(2) In the case of a partial accrual computation period, the following rules shall apply:

(i) A plan having a minimum service requirement expressed in hours of service (or other units of service) for benefit accrual in a full accrual computation period (as permitted under section 204 (b) (3) (B) of the Act and section 411 (b) (3) (B) of the Code) may apply a minimum service requirement for benefit accrual in a partial accrual computation period which is equal to the plan's minimum service requirement for benefit accrual in a full accrual computation period, multiplied by the ratio of the length of the partial accrual computation period to a full year.

(ii) In the case of a participant who meets a plan's minimum service requirement for benefit accrual in a partial accrual computation period (as permitted under subparagraph (2) (i) of this paragraph), the plan shall credit the participant with at least a partial year of participation for purposes of benefit accrual. Credit for a partial accrual computation period shall be determined in accordance with paragraphs (c) and (d) of this section.

(3) *Example.* Effective October 1, 1977, a plan is amended to change the accrual computation period from the 12-consecutive-month period beginning on January 1 to the 12-consecutive-month period beginning on October 1. The period from January 1, 1977 to September 30, 1977 must be treated as a partial accrual computation period. The plan has a requirement that a participant must be credited with 1,000 hours of service in an accrual computation period in order to be credited with a year of participation for purposes of benefit accrual. For the partial accrual computation period the plan may require a participant to be credited with 750 hours of service in the partial accrual computation period in order to receive credit for purposes of benefit accrual (1,000 hours of service multiplied by the ratio of 9 months to 12 months). To the extent permitted under paragraph (d) of this section, the plan may prorate accrual credit on whatever basis the plan uses to prorate accrual credit for employees whose service is 1,000 hours of service or more but less than service required for full accrual in a full accrual computation period.

§ 2530.204–3 Alternative computation methods for benefit accrual.

(a) *General.* Under section 204(b) (3) (A) of the Act and section 411(b) (3) (A) of the Code, a defined benefit pension plan may determine an employee's service for purposes of benefit accrual on the basis of accrual computation periods, as specified in § 2530.204–2, or on any other basis which is reasonable and consistent and which takes into account all covered service during the employee's participation in the plan which is included in a period of service required to be taken into account under section 202(b) of the Act and section 410(a) (5) of the Code. If, however, a plan determines an employee's service for purposes of benefit accrual on a basis other than computation periods, it must be possible to prove that, despite the fact that benefit accrual under the plan is not based on computation periods, the plan's provisions meet at least one of the three benefit accrual rules of section 204(b) (1) of the Act and section 411(b) (1) of the Code under all circumstances. Further, a plan which does not provide for benefit accrual on the basis of computation periods may not disregard service under section 204(b) (3) (C) of the Act and section 411(b) (3) (C) of the Code.

(b) *Examples.* The following are examples of methods of determining an employee's perio dof service for purposes of benefit accrual under which an employee's period of service is not determined on the basis of computation neriods but which may be used by a plan provided that the requirements of paragraph (a) of this section are met:

(1) *Career Compensation.* A defined benefit formula based on a percentage of compensation earned in a participant's career or during participation, with no variance depending on hours completed in given periods.

(2) *Credited Hours.* A defined benefit formula pursuant to which an employee is credited with a specified amount of accrual for each hour of service (or hour worked or regular time hour) completed by the employee during his or her career.

(3) *Elapsed Time.* See § 2530.200b–9 (e).

§ 2530.204–4 Deferral of Benefit Accrual.

For purposes of section 204(b) (1) (E) of the Act and section 411(b) (1) (E) of the Code (which permit deferral of benefit accrual until an employee has two continuous years of service); an employee shall be credited with a year of service for each computation period in which he or she completes 1,000 hours of service. The computation period shall be the eligibility computation period designated in accordance with § 2530.202–2.

Subpart C—Form and Payment of Benefits

§ 2530.205 [Reserved]

§ 2530.206 [Reserved]

Subpart D—Plan Administration as Related to Benefits

§ 2530.207 [Reserved]

§ 2530.208 [Reserved]

§ 2530.209 [Reserved]

§ 2530.210 Employer or employers maintaining the plan.

(a) *General statutory provisions.* (1) *Eligibility to participate and vesting.* Except as otherwise provided in sections 202(b) or 203(b) (1) of the Act and sections 410(a) (5), 411(a) (5) and 411(a) (6) of the Code, all years of service with the employer or employers maintaining the plan shall be taken into account for purposes of section 202 of the Act and section 410 of the Code (relating to minimum eligibility standards) and section 203 of the Act and section 411(a) of the Code (relating to minimum vesting standards).

(2) *Accrual of benefits.* Except as otherwise provided in section 202(b) of the Act and section 410(a) (5) of the Code, all years of participation under the plan must be taken into account for purposes of section 204 of the Act and section 411(b) of the Code (relating to benefit accrual). Section 204(b) of the Act and 411(b) of the Code require only that periods of actual participation in the plan (e.g., covered service) be taken

into account for purposes of benefit accrual.

(b) *General rules concerning service to be credited under this section.* Section 210 of the Act and sections 413(c), 414 (b) and 414(c) of the Code provide rules applicable to sections 202, 203, and 204 of the Act and sections 410, 411(a) and 411 (b) of the Code for purposes of determining who is an "employer or employers maintaining the plan" and, accordingly, what service is required to be taken into account in the case of a plan maintained by more than one employer. Paragraphs (c) through (e) of this section set forth the rules for determining service required to be taken into account in the case of a plan or plans maintained by multiple employers, controlled groups of corporations and trades or businesses under common control. Note throughout that every mention of multiple employer plans includes multiemployer plans. See § 2530.210(c)(3). Paragraph (f) of this section sets forth special break in service rules for such plans. Paragraph (g) of this section applies the break in service rules of sections 202(b)(4) and 203(b)(3)(D) of the Act and sections 410(a)(5)(D) and 411(a)(6)(D) of the Code (rule of parity) to such plans.

(c) *Multiple employer plans*—(1) *Eligibility to participate and vesting.* A multiple employer plan shall be treated as if all maintaining employers constitute a single employer so long as an employee is employed in either covered service or contiguous noncovered service. Accordingly, except as referred to in paragraph (a)(1) and provided in paragraph (f) of this section, in determining an employee's service for eligibility to participate and vesting purposes, all covered service with an employer or employers maintaining the plan and all contiguous noncovered service with an employer or employers maintaining the plan shall be taken into account. Thus, for example, if an employee in service covered under a multiple employer plan leaves covered service with one employer maintaining the plan and is employed immediately thereafter in covered service with another employer maintaining the plan, the plan is required to credit all hours of service with both employers for purposes of participation and vesting. If an employee moves from contiguous noncovered to covered service, or from covered service to contiguous noncovered service, with the same employer, the plan is required to credit all hours of service with such employer for purposes of eligibility to participate and vesting.

(2) *Benefit accrual.* A multiple employer plan shall be treated as if all maintaining employers constitute a single employer so long as an employee is employed in covered service. Accordingly, except as referred to in paragraph (a)(2) and provided in paragraph (f) of this section, in determining a participant's service for benefit accrual purposes, all covered service with an employer or employers maintaining the plan shall be taken into account.

(3) *Definitions.* (i) For purposes of this section, the term "multiple employer plan" shall mean a multiemployer plan as defined in section 3(37) of the Act and section 414(f) of the Code or a multiple employer plan within the meaning of sections 413 (b) and (c) of the Code and the regulations issued thereunder. Notwithstanding the preceding sentence, a plan maintained solely by members of the same controlled group of corporations within the meaning of paragraph (d) of this section or by trades or businesses which are under the common control of one person or group of persons within the meaning of paragraph (e) of this section shall not be deemed to be a multiple employer plan for purposes of this section, and such plan is required to apply the rules under this section which are applicable to controlled groups of corporations or commonly controlled trades or businesses respectively.

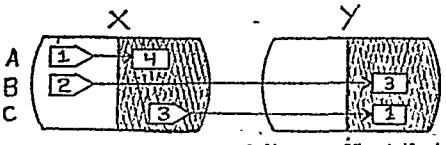
(ii) For purposes of this section, the term "covered service" shall mean service with an employer or employers maintaining the plan within a job classification or class of employees covered under the plan.

(iii) For purposes of this section the term "noncovered service" shall mean service with an employer or employers maintaining the plan which is not covered service.

(iv) (A) *General.* For purposes of this section noncovered service shall be deemed "contiguous" if (1) the noncovered service precedes or follows covered service and (2) no quit, discharge or retirement occurs between such covered service and noncovered service.

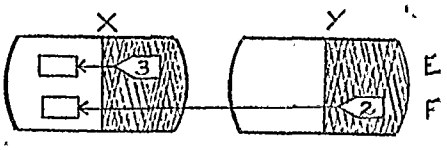
(B) *Exception.* Notwithstanding the preceding paragraph, in the case of a controlled group of corporations within the meaning of paragraph (d) of this section or trades or businesses which are under the common control of one person or group of persons within the meaning of paragraph (e) of this section, any transfer of an employee from one member of the controlled group to another member or from one trade or business under common control to another trade or business under the common control of the same person or group of persons shall result in the period of noncovered service which immediately precedes or follows such transfer being deemed "noncontiguous" for purposes of paragraph (c) of this section.

Diagram No. 1. (Multiple Employer Plan.)



Assume for purposes of diagram No. 1 that X and Y are both employers who are required to contribute to a multiple employer plan and that neither employer maintains any other plan. Covered service is represented by the shaded segments of the diagram. After completing 1 year of noncovered service, employee A immediately enters covered service with X and completes 4 years of covered service. For purposes of eligibility to participate and vesting, the plan is required to credit employee A with 5 years of service with employer X because his period of service with X includes a period of covered service and a period of contiguous noncovered service. On the other hand, employee B, immediately after completing 2 years of noncovered service with X, enters covered service with Y. Because B quit employment with X, his period of noncovered service with X is not contiguous and, therefore, is not required to be taken into account. In the case of employee C, the plan is required to take into account all service with employers X and Y because employee C is employed in covered service with both employers.

Diagram No. 2. (Multiple Employer.)



The multiple employer plan rules with respect to noncovered service are illustrated in diagram No. 2. Assume that X and Y are both employers who are required to contribute to a multiple employer plan and that neither employer maintains any other plan. Covered service is represented by the shaded segments of the diagram. Employee E completed 3 years of service with employer X in covered service and then immediately entered noncovered service with X. Because E's noncovered service is contiguous, the plan is required to take into account all service with X for purposes of eligibility to participate and vesting under the multiple employer plan. Employee F does not continue to receive credit; F quit the employment of Y and entered noncovered service with X.

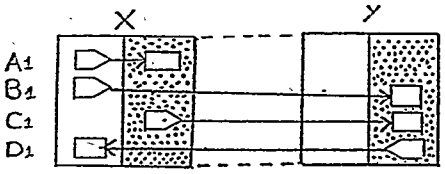
(d) *Controlled groups of corporations.* (1) With respect to a plan maintained by one or more members of a controlled group of corporations (within the meaning of section 1563(a) of the Code, determined without regard to section 1563 (a)(4) and (e)(3)(C)), all employees of such corporations shall be treated as employed by a single employer.

(2) Accordingly, except as referred to in paragraph (a)(1) and provided in paragraph (f) of this section, in determining an employee's service for eligibility to participate and vesting purposes, all service with any employer which is a member of the controlled group of corporations shall be taken into account. Except as referred to in paragraph (a)(2) and provided in paragraph (f) of this section, in determining a participant's service for benefit accrual purposes, all service during periods of participation covered under the plan with any employer which is a member of the controlled group of corporations shall be taken into account.

(e) *Commonly controlled trades or businesses.* With respect to a plan maintained only by one or more trades or businesses (whether or not incorporated) which are under common control within the meaning of section 414(c) of the Code and the regulations issued thereunder, all employees of such trades or businesses shall be treated as employed by a single employer. Accordingly, except as referred to in paragraph (a)(1) and provided in paragraph (f) of this section, in determining an employee's service for eligibility to participate and vesting purposes, all service with any employer which is under common control shall be taken into account. Except as referred to in paragraph (a)(2) and provided in paragraph (f) of this section, in deter-

mining a participant's service for benefit accrual purposes, all service during periods of participation covered under the plan with any employer which is under common control shall be taken into account.

Diagram No. 3. (Controlled group or commonly controlled trade or business.)



Assume for purposes of diagram no. 3 that X and Y are either members of the same controlled group of corporations or trades or businesses which are under the same common control. The dotted segments of the diagram represent plan coverage under plans separately maintained by X and Y. Neither employer maintains any other plans. Because A1, B1, C1 and D1 have their service with X and Y treated as if X and Y were a single employer, the plans are required to take into account all service with X and Y for eligibility to participate and vesting purposes.

(f) *Special break in service rules.* (1) In addition to service which may be disregarded under the statutory provisions referred to in paragraph (a) of this section, a multiple employer plan may disregard noncontiguous noncovered service.

(2) In the case of a plan maintained solely by one or more members of a controlled group of corporations or one or more trades or businesses which are under common control, if one of the maintaining employers is also a participating employer in a multiple employer plan which includes other employers which are not members of the controlled group or commonly controlled trades or businesses, service with such other employer maintaining the multiple employer plan may be disregarded by the controlled group or commonly controlled plan.

Diagram No. 4. (Break in Service Rules)

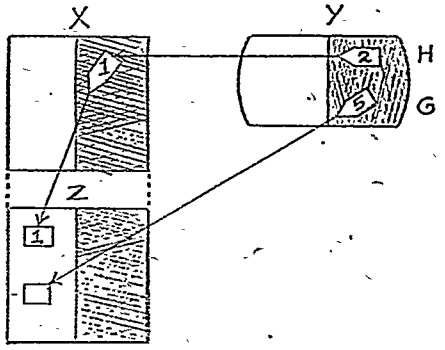


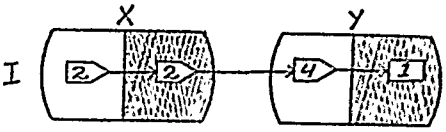
Diagram no. 4 illustrates the break in service rules of paragraph (f) of this section. Assume for purposes of diagram no. 4 that employer Z is controlled by employer X but employer Y's only relation to X and Z is that X, Y and Z are required to contribute to a multiple employer plan. The multiple employer plan, represented by the shaded segments of the diagram, provides for 100% vesting after 10 years. X, Y and Z maintain no other plans.

Employee G completed 5 years of covered service with employer Y, and then moved to noncovered service with employer Z. G's noncovered service is noncontiguous (see employee F in diagram no. 2 above), and such service may be disregarded for purposes of the multiple employer plan under the rule in paragraph (f)(1).

Employee H completed 2 years of covered service with employer Y and then entered covered service with employer X for 1 year. The multiple employer plan is required to credit H with 3 years of service. H then entered noncovered service with employer Z. H's noncovered service is noncontiguous (see employee F in diagram no. 2 above), and such service may be disregarded for purposes of the multiple employer plan under the rule in paragraph (f)(1).

(g) *Rule of parity.* For purposes of sections 202(b)(4) and 203(b)(3)(D) of the Act and sections 410(a)(5)(D) and 411(a)(6)(D) of the Code, in the case of an employee who is a nonvested participant in employer-derived accrued benefits at the time he incurs a 1-year break in service, years of service completed by such employee before such break are not required to be taken into account if at such time he incurs consecutive 1-year breaks in service which equal or exceed the aggregate number of years of service before such breaks. This is so even though the period of noncontiguous noncovered service with an employer or employers maintaining the plan may subsequently be deemed contiguous as the result of the employee entering covered service with the same employer maintaining the plan and, consequently, such plan may be required to credit such service.

Diagram no. 5. (Rule of parity)



Assume for purposes of diagram no. 5 that X and Y are both employers who are required to contribute to a multiple employer plan which contains a provision applying the rule of parity. Covered service is represented by the shaded segments of the diagram. The plan has 100% vesting after ten years. X and Y maintain no other plan.

The multiple employer plan credited employee I with 4 years of service with X when he quit employment with X and entered noncovered service with Y. As a result of 4 years of noncontiguous noncovered service with Y, employee I incurred 4 consecutive 1-year breaks in service, so that the multiple employer plan may disregard his prior service (i.e., the 4 years of service with X).

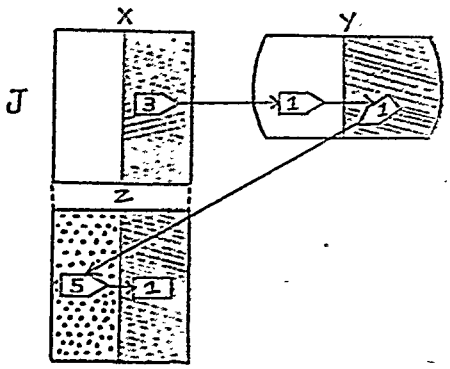
When employee I entered covered service with Y (as a "new employee"), his 4 years of noncontiguous service with Y became contiguous for purposes of the multiple employer plan. Consequently, after 1 year of covered service with Y, the plan is required to credit employee I with 5 years of service.

(h) *Example.* Under section 203(b)(1)(C) of the Act and section 411(a)(4)(C) of the Code, service with an employer prior to such employer's adoption of the plan need not be taken into account. The following example demonstrates that this rule applies even if an employee is employed in contiguous noncovered service. The example is applicable to any plan subject to the rules of this section. However, for purposes of clarity, the example assumes that X and Y are required to contribute to a multiple employer plan.

Assume that employee D completed 3 years of covered service with employer Y as of the date X adopts the plan. Immediately after X's adoption of the plan D left covered service with Y and D entered covered service with X. His prior covered service with Y is required to be counted, and D remains a participant.

On the other hand, if D had entered service with X anytime prior to X's adoption of the plan and subsequently was covered by the plan when X adopted it, his prior service with Y must also be counted, unless such service may be disregarded under the break in service rules because the period of service with X before X's adoption of the plan was equal to or greater than his prior service with Y. For example, if X adopted the plan three years after D began employment with X, and consequently after D had incurred 3 consecutive 1-year breaks in service, his prior service with Y could be disregarded.

(i) *Comprehensive diagram.* (No. 6)



Assume for purposes of diagram no. 6 that employer Z is controlled by employer X within the meaning of paragraph (d) but employer Y's only relation to X and Z is that X, Y and Z are required to contribute to a multiple employer plan. The shaded segments represent coverage under the multiple employer plan which contains a provision applying the rule of parity. The dotted segment represents a separate plan maintained by Z. Both plans have 100% vesting after 10 years.

Employee J completed 3 years of service with employer X in covered service with the multiple employer plan. J then entered noncovered service with Y and remained with Y for 1 year, and thereby incurred a 1-year break in service under the multiple employer plan. J then entered covered service with employer Y, thereby causing the noncovered service with Y to become contiguous. Covered service with X and contiguous noncovered and covered service with Y must be taken into account for purposes of the multiple employer plan; accordingly, that plan is required to credit J with a total of 5 years of service.

J then left service with Y and entered noncovered service (with respect to the multiple employer plan) with Z. J remained in noncovered service with Z (with respect to the multiple employer plan) for 5 years and thereby incurred 5 consecutive 1-year break in service for purposes of the multiple employer plan. Consequently, the prior service with X and Y may be disregarded for purposes of the multiple employer plan.

J then entered covered service under the multiple employer plan with Z and com-

pleted 1 year of service. Because the 5 years of noncovered service with Z is contiguous with the 1 year of covered service, the multiple employer plan is now required to credit J with 6 years of service for purposes of eligibility to participate and vesting.

For purposes of Z's controlled group plan (i.e., dotted segment), employee J is entitled to receive credit for 9 years of service. The 3 years of service with X, a member of the controlled group, may not be disregarded under the rule of parity because J incurred only 2 consecutive 1-year breaks in service while employed with Y. When J entered service with Z covered under Z's controlled group plan, the 3 years of service with X were still required to be credited by the controlled group plan. In addition, J must receive credit for the 5 years of service with Z covered under the controlled group plan. Finally, when J moved to service with Z covered under the multiple employer plan the controlled group plan was required to credit J with an additional year of service.

Signed at Washington, D.C. this 22nd day of December, 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.76-38096 Filed 12-23-76;8:45 am]

federal register

TUESDAY, DECEMBER 28, 1976

PART III

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

COTTON DUST

Proposed Standards for Exposure and Notice of Hearing

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1910 and 1928]

[Docket No. H-052]

OCCUPATIONAL EXPOSURE TO COTTON DUST

Proposed Standards and Notice of Hearing

Pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 ("the Act") (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059) and Title 29, Code of Federal Regulations ("CFR"), Part 1911, it is proposed to amend Part 1910 of 29 CFR by adding a new occupational safety and health standard for exposure to cotton dust as 29 CFR 1910.-1043, and by deleting the present standard for "cotton dust (raw)" contained in Table Z-1 of 29 CFR 1910.1000. This standard would apply to all employments in all industries covered by the Act, including "general industry," construction, maritime and agriculture except harvesting.

In addition, pursuant to section 4(b)(2) of the Act (84 Stat. 1592, 29 U.S.C. 653), if th standard, when promulgated, is determined to be more effective than corresponding standards now applicable to the maritime and construction industries contained in Subpart B of Part 1910, Parts 1915, 1916, 1917, 1918, and 1926 of 29 CFR, the new cotton dust standard will supersede the corresponding maritime and construction standards for exposure to cotton dust. Appropriate conforming amendments will be made in Subpart B of Part 1910, and amendments to delete the superseded standards and replace them with references to the new cotton dust standard will be made in 29 CFR 1926.55 and in similar sections of Parts 1915-1918.

Further, to clarify the proposed application of the cotton dust standard to agricultural operations including cotton ginning (but excluding harvesting), it is proposed to amend 29 CFR 1928.21 to add the cotton dust standard to the list of standards applicable to agriculture.

During Fiscal Year 1977, which ends on September 30, 1977, OSHA is subject to a rider attached to the Department of Labor-Department of Health, Education, and Welfare Appropriations Act (Pub. L. 94-439), which prohibits, among other things, the expenditure of funds to prescribe or issue any standard which is applicable to any person engaged in a farming operation and employing 10 or fewer employees. Accordingly, to the extent that there are farming operations (such as cotton ginning done on the farm) which would otherwise be covered by this standard but which employ 10 or fewer employees, this standard would not be applicable to such operations so long as the rider remains in effect.

The accompanying document is a proposal issued pursuant to sections 6(b) and 8(c) of the Act. As explained more fully below, the agency requests the submission of written comments, data, and arguments from interested persons on the various issues specifically addressed or implicit in the proposal. In addition, pursuant to section 6(b)(3) of the Act, there will be an informal rulemaking hearing to provide further opportunity for presentation of evidence and discussion of the issues. After the hearing the Occupational Safety and Health Administration (OSHA) will issue a final standard based upon the full record in the proceeding.

Very briefly, the proposed standard provides for a permissible employee exposure limit of 200 micrograms of vertical elutriated cotton dust per cubic meter of air (200 $\mu g/m^3$) averaged over any eight-hour period. The proposal also provides for, among other things, the measurement of employee exposure, methods of compliance, personal protective equipment, training, work practices including housekeeping, medical surveillance, signs and recordkeeping.

Some of the major issues raised in this proposal on which comment is requested include the following:

(1) Whether the proposed application of the permissible exposure limit for cotton dust to all employments in all industries covered by the Act, including "general industry", maritime, construction, and agriculture, but excluding harvesting, is appropriate.

(2) Whether different standards should be set for different industries involved with cotton dust, such as ginning, merchandising, textiles, cottonseed oil manufacturing, waste utilization operations, etc., or for various operations within industries, especially weaving, knitting and subsequent processes such as dyeing.

(3) What is the impact of seasonal employment on the hazards of exposure to cotton dust.

(4) Whether present knowledge of the physiological response to cotton dust is sufficiently developed to set different standards for cotton dusts generated from different varieties of cotton grown in different regions and generated in the wide variety of industrial processes.

(5) Whether the selection of the substance to be regulated, namely vertical elutriated particulates, is appropriate.

(6) Whether the proposed permissible exposure limit of 200 $\mu g/m^3$ incorporate an appropriate margin of safety for all affected employees.

(7) Whether the prevention of reversible symptoms or reversible physiological changes should be considered in establishing a standard, such as this one for exposure to cotton dust.

(8) Whether the proposed compliance schedule is technologically feasible; what are the expected compliance costs and ability of the affected industries to comply.

(9) Whether the proposed provisions for employee exposure measurements, compliance procedures, work practices, medical surveillance, protective equipment and recordkeeping are appropriate.

(10) Whether certain aspects of the medical surveillance proposed should be conducted by a non-physician and if so what training or certification should be required.

(11) Whether there are groups with increased susceptibility to cotton dust in the working population, such as smokers and asthmatics, and whether such susceptibility, if it exists, should be considered in establishing a standard for occupational exposure to cotton dust.

(12) Whether medical measurements, mainly pulmonary function measurement, need to be applied differently to different ethnic groups.

(13) What requirements should be established where, as a result of the medical surveillance program, it is determined that an employee is at increased risk.

(14) Whether the standard should include specific requirements for methods and equipment to be used in conducting pulmonary function tests and, if so, what is appropriate.

(15) Whether, as proposed, cleaning of equipment and surfaces using compressed air ("blow-downs") should be prohibited or restricted to a time when only personnel doing such work are present and using personal protective equipment.

I. BACKGROUND

A. GENERAL

Cotton is commercially grown in at least nineteen States and is a major crop in fourteen. The states generally considered to be the largest producers of cotton are Texas, California, Mississippi and Arkansas. Between ten and thirteen million bales (480 lbs. net wt.) of cotton lint are produced annually in the United States. At the farm level, cotton was worth almost $3 billion in 1973 and more than $12 billion at retail levels. The number of workers involved in cotton fiber processing alone was estimated by OSHA in 1973 to be at least 800,000.

The cotton industry of the United States can be divided into eleven processes: (1) harvesting; (2) ginning; (3) warehousing and compressing of cotton lint; (4) classing and marketing of cotton lint; (5) yarn manufacturing using cotton lint; (6) fabric manufacturing using cotton yarn; (7) reclaiming and marketing of textile manufacturing waste; (8) delintering of cottonseed; (9) marketing and converting of linters; (10) reclaiming and marketing of gin-motes; and (11) batting, yarn and felt manufacturing using waste cotton fibers and byproducts. Within each of these major processes there are various stages, distinct work procedures and methods of operation.

Less than 15 percent of the cotton crop is grown in the southeastern states where the textile industry is concentrated. Thus, a large proportion of the crop is transported long distances to domestic mills or to ports for export. Most of the crop is harvested and ginned in the fall and early winter; it is processed by domestic and foreign mills on a year round basis. Hence, storage and transportation are major elements of the entire cotton industry.

As soon as cotton is harvested it is usually hauled to a nearby gin. The gin has features which are similar to a fixed industrial work place such as a textile

mill. After the seed cotton arrives at the gin, it is exposed to multiple stages of conditioning and cleaning most, if not all, of which result in cotton dust exposures. The line is separated from the seed and packaged into bales weighing approximately 480 pounds.

After ginning most cotton lint moves into a warehouse for storage or a compress for hydraulic pressing to higher density pending shipment to cotton mills or ports for export. Bales are initially sampled at the gin or warehouse for the United States Department of Agriculture classification which is furnished to cotton producers under the United States Cotton Standard Act (7 U.S.C. 51–65). Bales are usually resampled by warehousemen and reclassed by merchants or shippers one or more additional times as they move through marketing channels. Transportation, storing and sampling of cotton all involve employee exposure to cotton dust primarily as a result of cotton dust being generated into the atmosphere by the handling of cotton.

Cotton lint arrives at the textile mill in hydraulically compressed packaged bales. At the mill the bale covering is removed and the contents are passed through the opening machinery which exposes it to successive processes of intense decompression, beating, cleaning, and mixing. During these operations, dirt and other heavy impurities are removed by gravity or by centrifugal force through grids or screens. Cotton from the opening equipment is usually conveyed pneumatically to the picker room where it is fed evenly to the pickers which further open and clean the cotton and deliver either a picker lap, a flat thick batt of randomly oriented fibers, or pneumatically conveyed loose cotton lint to the carding machinery. Carding machines comb the fiber so that it lies straight and parallel and some cleaning is also effected. Large quantities of dust can be produced by this process and the card room has traditionally been one of the dustiest workrooms in a mill. The main processes in a spinning mill after carding are: drawing to obtain thorough fiber mixing and weight uniformity, roving to draw the sliver down to one fourth to one-eighth its original size and slightly twist it, and spinning to give considerable fine draft to the soft roving and twist it into yarn. Processes subsequent to spinning are only amalgamation of yarn units or changes in the form of package and result in the production of a yarn in a form suitable for dispatch to the fabric manufacturing mill. Weaving is the process of interlacing two sets of yarn, one running lengthwise on a loom, the other crosswise, by means of a shuttle. This results in a woven fabric, ready for finishing processes such as dyeing.

Textile wastes are usually packaged into bales at the textile plant, frequently in a separate building or work area referred to as the waste house, and sold to textile waste dealers or directly to textile waste processing plants. At the waste processing plant the bale covering is removed, the contents are passed through a hand opening and cleaning process for removal of gross debris such as paper and pieces of metal caps from floor sweepings and then through machinery which exposes the contents to successive processes of intense beating, cleaning and mixing before rebaling and storage pending sale to the spinning trade for use in yarn and the felting trade for use in batting and felting. As this description indicates, waste processing is an extremely dusty operation.

The cottonseed is separated from the cotton lint at the gin. From the gin, most cottonseed moves into oilseed processing. Cotton linters, the short fibrous material adhering to cotton seed after ginning, are removed from the seed by machines before the seeds are crushed.

Gin motes are a byproduct of the cotton ginning process consisting of any cotton waste useable for its fiber content. Gin motes may be cleaned and baled at the gin, usually in a building separate from the gin plant, or sold in loose form to mote cleaning plants which pick up motes in bins or trailers at regular intervals. At the mote cleaning plant the loose gin motes and the unclean baled gin motes are cleaned or reclaimed, baled and stored pending sale to the spinning trade for use in yarn and to the felting trade for use in batting and felting.

Three types of waste cotton fibers and byproducts are used in manufacturing batting and felting for bedding, automotive uses, upholstered furniture and thermal insulation: cotton linters, gin motes and cotton mill wastes. All of the cotton fibers and byproducts used in mattress felts and related products arrive at the batting manufacturers in packaged bales. At the plant the bale covering is removed and the contents are passed through opening and mixing machinery which exposes it to successive processes of decompression, beating, cleaning and mixing. Cotton from opening equipment is sucked up to a condenser before it is delivered to the garnetting machinery. The garnet consists of two main cylinders and many smaller ones which further separate and form the fibers into fine web, causing much of the trash to be liberated.

The proportion of cotton to synthetic fiber in textile goods has generally decreased in recent years with the advent of newer texturizing processes for synthetic fibers. However, processed cotton has certain desirable properties which make it unlikely that complete substitution by synthetic fibers would ever occur. Among these are its properties of moisture absorbancy, coolness, softness, ready adaptability into leisure fabrics such as denim and corduroy, and economy of use. In addition, substitution of synthetic fibers results in increased use of petroleum products and other forms of energy.

B. HISTORY OF REGULATION

Although textile workers have long been know to suffer from a high prevalence of respiratory disease, substantial improvements relating to working conditions in the cotton textile industry did not occur until well into the twentieth century. The most imporant early improvements came in England as a result of legislative acts requiring medical inspection of workplaces, compulsory reporting of industrial diseases and compensation of the diseased and disabled workers. In 1942 a compensation scheme was introduced in England as a means of implementing the Factory Act of 1937 and associated legislation which for the first time recognized byssinosis as an occupational disease.

At that time byssinosis was thought to be confined to British cotton mills. Even as recently as 1961, its occurrence in the United States was said to be almost nil. Ten years later prevalence of byssinosis in the United States on the order of 20–30 percent was found in carding operations. (*16*) In 1964 the American Conference of Governmental Industrial Hygienists (ACGIH) placed cotton dust on its tentative list of threshold limit values, and in 1966 they adopted a 1000 ug/m³ of total cotton dust as their recommended value for exposure. This TLV was based upon the work of Roach and Schilling (*1*) in the Lancashire cotton mills. Exposure to cotton dust was not regulated in the U.S. until 1968, when the Secretary of Labor under the Walsh-Healey Act (41 U.S.C. 35 et seq.), promulgated the 1968 ACGIH list of Threshold Limit Values which included a "cotton dust (raw)" limit of 1000 ug/m³. This standard was subsequently adopted as an established Federal standard under section 6(a) of the Occupational Safety and Health Act of 1970. In 1972, the British Occupational Hygiene Society (BOHS) published a report, largely based upon Molyneux and Berry's "Correlation of Cotton Dust Exposure with the Prevalence of Respiratory Symptoms, (*55*)" recommending a new standard of 500 ug/m³ less "fly"; the term fly meaning dust particles removed by a 2-mm wire screen. In addition, in 1972, on the basis of BOHS and others, a revision of the TLV was recommended that would measure respirable dust rather than "total dust". In 1974, a TLV of 200 ug/m³ of cotton dust as measured by the vertical elutriator was adopted by ACGIH. The rationale was stated as follows:

> Molyneux and Berry, in a 3-year prospective study of cardroom workers in Lancashire, concluded that two components of the total dust, the "respirable" and "medium" fractions correlated significantly with the prevalence of respiratory symptoms. The committee of Hygiene Standards of the British Occupational Hygiene Society stated on the basis of this study that a concentration of 0.3 to 0.4 mg/m³ of "fly-free" dust results in 20 percent byssinosis. ("Fly-free" cotton dust is the sum of respirable and medium length fibers. At an average level of 0.46 mg/m³ fly-free dust, 6 percent Grade II byssinosis occurred. Merchant, Lumsden and Kilburn using the vertical elutriator sampler, showed a byssinosis (all grades) prevalence of 20 percent at 0.3 mg/m³ of dust with fiber length less than 15 um. In slashing and weaving areas of the mills, only 6 percent byssinosis, all grades, occurred at 0.5 mg/m³. A probit line of best fit of the data indicated that raw, untreated cotton would result in 3 percent byssinosis at 0.05 mg/m³, 7 percent at 0.1 mg/m³, 13 percent at 0.2

mg/m³. The BOHS Committee further determined that less than one case of Grade II byssinosis occurred per five cases of byssinosis all grades, at 0.5 mg/m³. Thus, the 13 percent byssinosis, all grades found by Merchant et al. in this country at 0.2 mg/m³ would result in considerably less than 3 percent Grade II byssinosis. Moreover, Merchant et al. have shown that a concentration of 0.2 mg/m³ in the cotton preparation room was equivalent in byssinosis production to 1 mg/m³ in the slashing and weaving areas.

From the statistical treatment of the data, the interpretation of the findings of Merchant et al. would appear to be that there is no readily measureable limit for raw cotton dust that will completely eliminate Monday morning "chest tightness" and reduction in 1-second forced expiratory volumes.

Accordingly, a TLV for raw cotton of 0.2 mg/m³ of dust composed of fibers less than 15 um in length is recommended. The limit is intended to prevent Monday morning chest tightness in most of the workers so that the more susceptible may be detected and transferred out of the exposure before irreversible damage to health results.

On September 26, 1974, pursuant to section 20(a)(3) of the Act, the Director of the National Institute for Occupational Safety and Health (NIOSH) submitted to the Secretary of Labor a criteria document containing a recommended standard for cotton dust. Among other things, the significant sections of the recommended standard included medical management and surveillance, personal protective equipment, posting of signs, exposure monitoring, informing employees of the hazards of cotton dust, recordkeeping and work practices. The NIOSH recommendation was intended to apply to all employments in all segments of the cotton industry. The document stated that "since no definitive environmental level can assure complete health protection, none is recommended * * *. However, to ensure that effective engineering controls are implemented and dust concentrations reduced, an environmental standard should be fixed. The concentration should be set at the lowest level feasible in order to reduce the prevalence and severity of byssinosis."

On December 6, 1974, NIOSH forwarded to the Assistant Secretary of Labor for Occupational Safety and Health a memorandum which modified the recommendation in the criteria document that the dust concentration should be set at the "lowest feasible" concentration. He stated

> * * * that byssinosis has been reported in workers exposed to as little as 0.05 milligrams of cotton dust per cubic meter of air (mg/cu m). It was also reported that byssinosis has resulted from exposure to cotton dust below this concentration. However, background dust levels near 0.1 mg/cu m are indistinguishable from cotton dust by available sampling methods. We believe that a level of 0.1 to 0.2 mg/cu m of lint-free cotton dust is feasible to measure and achieve, but these concentrations have been found to cause byssinosis in some workers. (*78*)

NIOSH also stated that the standard should be set in no case at an environmental concentration as high as 200 ug/m³ lint-free cotton dust. The NIOSH memorandum states its purpose is to "explain (the) rationale for the recommendation (of the lowest feasible level in the criteria document) and to offer a modification * * *" that hopefully would clarify any misunderstanding. On December 27, 1974, OSHA published an advance notice of proposed rulemaking (39 FR 44769) requesting that interested persons submit their views on specified issues relating to cotton dust, particularly the NIOSH Criteria Document.

In early 1975, petitions were filed by the Textile Workers Union of America and the North Carolina Public Interest Research Group with the Department of Labor requesting modification of the cotton dust standard to provide, among other things, a permissible exposure level of 100 ug/m³ cotton dust. (*62*)

II. Occupational Health Implications of Exposure to Cotton Dust

Chronic obstructive lung disease is one of the most common causes of premature disability retirement in the United States. It can also lead to premature death. The major cause of chronic lung disease is believed to be external irritants which are breathed into the lung. Significant contributing factors include cigarette smoking, air pollution and industrial exposure.

Workers exposed to cotton dust have been known to suffer from a high prevalence of respiratory diseases. (*15–20*) This fundamental association between cotton dust and increased prevalence of respiratory diseases has been recognized for almost a century.

However, as recently as twenty-five years ago, chronic respiratory disease due to exposure to cotton dust was thought to be confined to English cotton mills. It has since been described in countries all over the world including the U.S., and among workers in a wide range of exposure processes ranging from the ginning of cotton through the manufacturing of fabric using cotton yarn and the use of waste cotton fibers and byproducts. Studies by Schrag and Gullett (*14*) Bouhuys, (*15, 16*) Zuskin (*2*) Merchant (*44*) and others (*17, 18, 19*) have definitely established the existence and severity of respiratory disease from exposure to cotton dust in the U.S.

While byssinosis, the specific occupational disease, is responsible for many of the symptoms in workers exposed to cotton dust, exposure also results in the production or aggravation of respiratory symptoms characteristic of chronic lung disease, i.e., chronic bronchitis, asthma, emphysema and other non-specific disorders.

A. Byssinosis

Ramazzini, (*7*) writing in 1713 of flax and hemp workers, described symptoms characteristic of byssinosis. Many descriptions were given to the chronic respiratory disease suffered by textile workers; such conditions were reported in France in 1822 and 1827, (*8*) and in England in 1832. (*9*) In 1877, Adrien Proust described the syndrome as "byssinosis," which has continued to be used as the name for this occupational disease. (*67*)

Byssinosis is a specific respiratory disease, the symptoms of which are attributable to the action of cotton dust on the respiratory passages. The effects of byssinosis can be temporary or permanent, depending upon the exposure and the individual, and can lead in time to chronic obstructive lung disease, primarily chronic bronchitis. (*20, 21*) Initially, the individual notices a tightness in the chest occurring on the first day of the work week. The tightness may be accompanied by a measurable decrease in breathing capacity as measured by pulmonary function tests. Usually, the condition is mild and temporary at first, tending in time to progress to the stage where it bothers the workers on other days of the work week. This progression, which is characterized by constriction of the bronchial tubes of the lung, leads to a permanent narrowing of these airways. The individual develops a chronic cough with a production of phlegm and increasing shortness of breath. At this stage, the condition is readily detectable by pulmonary function measurements. Total disability and even death may follow. The description of these detailed symptoms appeared as early as 1908 in the work of Collis. (*10*)

As a result of the obvious subjective quality of the early symptoms of byssinosis, investigators have, in the past few years, subdivided byssinosis into different categories for purposes of diagnosis and treatment, namely: (a) the reversible symptomatic or physiological condition (sometimes referred to as a reactor state), and (b) the chronic irreversible lung disease.

Schilling (*22, 23*) distinguished the reversible symptoms of Grade one-half, Grade one, and Grade two byssinosis from the permanent incapacity which he labeled Grade three byssinosis. According to Schilling's classification byssinosis is graded as follows:

(a) Grade one-half—occasional chest tightness on the first day of work week.

(b) Grade one—chest tightness and/or breathlessness on Mondays only.

(c) Grade two—chest tightness and/or breathlessness on Mondays and other days.

(d) Grade three—grade two symptoms accompanied by evidence of permanent incapacity from diminished effort tolerance and/or reduced ventilatory capacity.

1. *Grades 1/2 to 2 (the reactor state).* After a variable time period, usually at least several years, a worker exposed to cotton dust develops a sensation of tightness in the chest, difficulty in breathing, increased coughing, and perhaps wheezing after coming to work on the first day of the work week, after being absent one or two days. Workers often notice that this reaction is more severe when intervals away from work have been more prolonged, such as after a vacation or an illness.

Bouhuys (*24*) observed that exposed workers also exhibit a measurable decrement in pulmonary function as measured by several techniques. Forced Expiratory (FEV_1) Volume for one second (FEV_1) is a widely used measurement and has shown significant decreases during the

first day of the work week in workers with symptoms characteristic of grades 1/2 to 2. However, some workers may exhibit tightness in the chest without any decrement in FEV_1, and still others may exhibit this decrement without the corresponding symptoms. (*18,19, 3, 24*). Other means of diagnosis, such as flow volume determinations, (*25*) closing volume determinations, and maximum mid-expiratory flow (MMF) (*26*) have been evaluated. Flow volume and MMF are more sensitive measurements and thus are more likely to decline with exposure to cotton dust than FEV_1. A satisfactory explanation has not been offered why some individuals complain of the tightness while others exhibit the decrement in pulmonary function without such complaints. The possibility that the subjective symptoms may be due to constriction of smaller airways, whereas the FEV_1 is more likely to decrease with constriction of larger airways, has been suggested by some as a possible explanation. (*27*) It is clear, however, that there is no generally accepted single diagnostic method of detection for the disease in the reactor state of Grades 1/2 –2.

2. *Grade 3 (the chronic irreversible disease).* In this advanced stage the clinical picture often becomes confused, as the chronic disease process is neither well understood nor well defined. Workers frequently manifest symptoms consistent with chronic bronchitis and emphysema. This stage is generally considered to be irreversible, with work in dusty atmospheres becoming extremely difficult or impossible. The rate at which a worker progresses to this stage, if at all, depends upon the amount of the causative agent contained in the dust inhaled, and the susceptibility of the individual.

In a study of American plants involving 995 workers, Braun et al.(*19*) came to the conclusion that prevalence of possible chronic effects could be as high as 14 percent in carders and 5.2 percent in other workers. Schrag and Gullett (*14*) studied textile workers in a large mill complex in the rural south. Of the 509 workers studied, 63 had byssinosis, a prevalence of 12%. Grade 3 byssinosis existed in 20 workers, of whom ten worked in carding, 4 in spinning, 4 in weaving, and 2 in picking operations. The prevalence of grade 3 byssinosis was much higher in those with more than 10 years of exposure to cotton dust.

El-Sadik et al. (*29*) in a study of lung function changes in different grades of byssinosis showed significant changes in FEV_1, vital capacity and other pulmonary function tests among grade 3 byssinotics. The authors pointed out that these changes are permanent in grade 3 byssinosis.

The clinical similarities between grade 3 byssinosis and other respiratory diseases have lead to misleading occupational mortality statistics, e.g. for heart disease (*73*) in which the final stages of grade 3 byssinosis create a strain on the heart leading to cardiac failure. That is to say that byssinosis, as a specific disease, is rarely reported as an underlying cause of death.

B. OTHER HEALTH EFFECTS

While byssinosis as a specific occupational disease is responsible for most of the symptoms in workers exposed to cotton dust, it seems clear that exposure to such dust also results in the production or exacerbation of respiratory symptoms characteristic of chronic lung disease of non-specific origin.

There is ample evidence that chronic bronchitis, (which is indistinguishable when produced by different etiologies), is far more common among cotton textile mill workers in cases where byssinosis symptoms are diagnosed by spirometry. (*31, 32, 17, 33, 34*) As with chronic bronchitis found in others, the condition may progress to the point of disability.

Elwood and co-workers (*33*) noted the presence of bronchitis as well as byssinosis in flax workers in Northern Ireland. They recognized two grades of byssinosis, differing largely in the persistence and quantity of production of phlegm from the chest. They observed that the similarity in the clinical pictures of advanced byssinosis and chronic bronchitis had been stressed by other writers. (*31, 32, 34*) A review (*20*) of the respiratory diseases of cotton workers showed that chronic bronchitis is frequently found in textile workers, specifically among those who have been diagnosed as byssinotic. Elwood et al. (*33*) suggested "that byssinosis represents an acute specific effect of certain textile dusts on the respiratory system, superimposed on a non-specific chronic bronchitic process." The clinical symptoms of the two diseases, as listed by Harris and associates, (*20*) are very similar.

Imbus and Suh (*18*) noted a marked relationship between the prevalence of byssinosis and bronchitis. Berry et al. (*41*) found the prevalence of bronchitis, unlike that of byssinosis, to be unrelated to dust levels. However, the prevalence of bronchitis among cotton mill workers was higher than in workers in synthetic fiber mills.

"Mill fever" is used to describe a symptom complex of unknown cause which occurs in some workers not accustomed to breathing cotton dust. (*20*) The symptoms which develop may include malaise, cough, fever, chills, and upper respiratory symptoms shortly after exposure. They disappear after acclimatization but may reappear after an absence from exposure or with an increased exposure to dust. (*35*)

Periodic outbreaks of an acute respiratory illness termed "weavers cough" have occurred among some workers. It appears as a sudden epidemic affecting both old and new workers. Earlier reports (*36, 37*) have associated its occurrence with mildewed yarn while other reports have incriminated tamarind seed powder, a constituent used in some yarn-sizing materials; unidentified sizing materials have been incriminated in other reports. Since weaver's cough is primarily associated with weaving operations where a low prevalence of byssinosis is expected, it appears that the occurrence of this illness among cotton workers depends upon unique situations involving mildewed yarns, sizing, or other unknown agents and not upon cotton dust as generally experienced by these workers.

Still another illness appears in workers handling dusty, (*39,40*) low-grade stained cotton. Those affected included cotton mill employees, workers at a cotton seed processing plant, and members of rural families using cotton to make mattresses. The illness, which began 1–6 hours after work started, had initial symptoms of fatigue and generaliezd aches, followed by anorexia, headache, nausea, vomiting, chills and fever. In these instances, symptoms ceased when respiratory protective devices were used or a better grade of cotton was substituted.

C. EARLY DETECTION PRIOR TO DEVELOPMENT OF CHRONIC DISEASE

Of critical importance to the regulation of exposure to cotton dust is the availability of techniques to detect susceptibility of workers prior to development of chronic disease. Cotton dust appears to be in the category of substances which produce discomfort or temporary physiological alteration prior to the development of irreversible disease. This fact makes early detection of byssinosis possible and therefore a critical element of an occupational health program.

Early detection of byssinosis historically has been achieved primarily by two methods, namely: the use of a questionnaire, and pulmonary function and reactivity testing.

1. *The use of a questionnaire.* A standard questionnaire such as the Medical Research Council (MRC) questionnaire (Appendix B), has been shown to be effective in identifying those individuals with the subjective symptoms of tightness in the chest. It has been argued that subjective symptoms may be exaggerated, understated, or coached by third parties. Although these arguments may have some degree of validity, the questionnaire survey technique has nevertheless been shown to be a valuable tool when used in a climate of mutual cooperation. In addition to the specific symptom of tightness, the questionnaire data reveal symptoms of bronchitis, e.g., chronic productive cough, and other symptoms of lung dysfunction such as shortness of breath (dyspnea), wheezing, and asthma.

Thus, medical questionnaires are considered valuable tools to indicate potential development or impairment, whether temporary or permanent. (*74*)

2. *Pulmonary function/reactivity testing.* Individuals who become sensitive to cotton dust and who are at increased risk of development of impairment, frequently show a temporary reduction of one or more pulmonary function measurements after exposure to cotton dust. While flow volume determinations and maximum mid-expiratory flow (FEF 25–75%) are considered to be the more sensitive measurements of reactivity, they have the disadvantages of non-specificity and greater

natural intra-subject variability. On the other hand, forced expiratory volume in one second (FEV_1), although less sensitive, appears less likely to respond to nonspecific factors and shows less normal variation within subjects.

There is some evidence of the possibility of developing pulmonary impairment due to cotton dust exposure without previous evidence of subjective symptoms or abnormal pulmonary function. (*41, 42*) Imbus and Suh (*18*) found that exposed employees who do not exhibit subjective symptoms, are not at greater risk. However, Berry et al. (*41*) and Merchant (*42*) indicated that exposed employees show greater deterioration in pulmonary function, as compared with controls. The likelihood of pulmonary impairment occurring, however, is diminished by requiring that each employee have determinations of pulmonary function measurements periodically. These tests will ensure that any significant change from the baseline determination will become apparent before material impairment occurs. While this method does not guarantee that no non-symptomatic or nonreactive employees will remain undetected, it clearly minimizes the incidence.

D. INCREASED SUSCEPTIBILITY OF SOME WORKERS

Most epidemiological studies (*2, 14, 17, 24, 41*) reveal that some workers do not appear to be affected by very high dust exposures while others are affected at very low exposures. The reasons for these differences in susceptibility are not understood well, but seem to include cigarette smoking and previous state of health.

Byssinosis produces a chronic obstructive lung disease similar to that produced by other pollutants, such as cigarette smoke. Thus consideration must be given to the studies showing the increased risk of byssinosis among those cotton dust workers who are also cigarette smokers, and to acceleration of effects of byssinosis by cigarette smoking. (*44, 51*)

Merchant (*44*) et al. observed a 50–600 percent increase in the prevalence of byssinosis in male workers who smoke as distinct from workers who do not smoke. It is estimated that approximately two-thirds of male workers and one-third of female workers in the textile industry smoke cigarettes. Cigarette smoking is considered an additive risk factor in the development of byssinosis.

In addition, since the effects of exposure to cotton dust are related to chronic lung disease it is expected that the effects would be increased where there are pre-existing respiratory conditions.

Molyneux and Tombleson, (*66*) in a 1963–1966 study of respiratory symptoms in cotton mills, found a relationship between bronchitis and byssinosis. Merchant et al. (*17*) have noted that the workers who have bronchitis are more likely to have byssinosis than those without bronchitis.

III. PERTINENT LEGAL AUTHORITY

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards. The standards setting process under section 6 of the Act is an integral part of an occupational safety and health program in that the process permits the participation of interested parties in consideration of medical data, industrial processes and other factors relevant to the identification of hazards. Occupational safety and health standards provide notice of the requisite conduct or exposure level and provide a basis for ensuring the existence of safe and healthful workplaces.

The Act provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life.
>
> Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of standards, and experience gained under this and other health and safety laws. [Section 6(b)(5)].

Section 2(b)(5) and (6), 20, 21, 22, and 24 of the Act reflect Congress' recognition that conclusive medical or scientific evidence including causative factors, epidemiological studies or dose response data may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, while final standards are based on the best available evidence, the legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Comm. On Education and Labor, H.R. Rep. No. 91–1291, 91st Cong., 2d Sess. 18 (1970).

This congressional judgment is supported by the courts which have reviewed standards promulgated under the Act. In sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court of Appeals for the Second Circuit stated that "it remains the duty of the Secretary to act to protect the workingman, and to act even in circumstances where existing methodology or research is deficient". *Society of Plastics Industry, Inc* v. *Occupational Safety and Health Administration,* 509 F.2d 1301, 1308 (2d Cir. 1975), cert. denied 95 S. Ct. 1998, 44 L Ed. 2d 482 (1975).

A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia Circuit in reviewing the asbestos standard (29 CFR 1910.1001).

The Court stated that:

> some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual analysis.

[*Industrial Union Department, AFL-CIO* v. *Hodgson,* 499 F. 2d 467, 474 (D.C. Cir. 1974).]

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Comm. on Labor and Public Welfare, S. Rep. No. 91–1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *Society of Plastics Industry, Inc.* v. *Occupational Safety and Health Administration,* supra at 1309.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Moreover, where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employees (section 6(b)(7)). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (section 8(c)).

IV. THE PROPOSAL

In the development of this proposal, OSHA has utilized extensively a number of scientific studies, including the *Criteria for a Recommended Standard—Occupational Exposure to Cotton Dust* developed by NIOSH.(*6*) Subsequent to the receipt of the NIOSH Criteria Document, OSHA has had extensive input from the scientific community, government, labor unions, affected industries, representatives of cotton growers, and equipment manufacturers.

The following section discusses the major elements of the proposed standard for occupational exposure to cotton dust and analyzes some of the significant issues raised. OSHA requests that comments and information be submitted on all the issues discussed or implicit in this preamble and proposed standard.

A. SCOPE AND APPLICATION

This proposed standard is applicable to all workplaces in all industries where exposure to cotton dust exists, including ginning, warehousing, compressing of cotton lint, classing and marketing of

cotton lint, fabric manufacturing using cotton yarn, reclaiming and marketing of textile manufacturing waste, delinting of cottonseed, marketing and converting of linters, reclaiming and marketing of gin motes and batting yarn felt manufacturing using waste cotton fibers and byproducts. This standard also applies to industries in construction, maritime and agriculture, except harvesting, to the extent that exposure to cotton dust exists. The proposed standard does not apply to harvesting, because it is a distinctively farming operation and presents different exposure environments and possibilities of control than are proposed herein. Also, this standard would not be applicable to framing operations such as cotton ginning done on the farm, which employ 10 or fewer employees, until expiration of the appropriations rider discussed above. Nor does the proposed standard apply to dust generated solely from the handling of woven and knitted materials, such as dust generated during the manufacturing of garments from finished textile fabrics.

"Cotton dust" is defined as dust present in the atmosphere during the handling or processing of cotton. It may contain a mixture of many substances, including ground up plant matter, fiber, bacteria, fungi, soil, pesticides, noncotton plant matter and other contaminants, which may have accumulated with the cotton during the growing, harvesting, subsequent handling, processing or storage periods. Any dust present during the handling and processing of cotton through the weaving or knitting of fabric in textile mills, and dust present in other operations or manufacturing processes using new or waste cotton fibers or cotton fiber byproducts from textile mills, is considered cotton dust.

OSHA is aware that the majority of epidemiological evidence relates to the textile industry. OSHA is also aware, however, of evidence that health problems similar to those observed in the textile industry do exist in nontextile manufacturing industries which process cotton, and thus the scope of this proposal is not limited to the textile industry.

A recent study by Weill and Jones (*68*) of workers in cottonseed mills revealed a decline in ventilatory function of exposed workers. For several functional parameters the mean decline was significantly different from zero, from the expected change based on diurnal variation, and from the change on the last day of the work week. Both chronic bronchitis and acute byssinosis had a low prevalence among cottonseed mill workers, but the dust is apparently biologically active as evidenced by the bronchoconstrictor effects. Since an acute pulmonary constrictor response was evidenced, the authors suggested that the current dust levels in the cottonseed mills should be lowered.

NIOSH found, in a study of cotton ginworkers in Texas and New Mexico, that the prevalence of FEV_1 decrements was higher than the prevalence in the cotton textile industry itself. (*59*) These responses were more common and more severe in smokers, than in non-smokers. The reduced FEV_1 values in smokers were related to the number of years worked. Chronic respiratory disease was not related to any personal or area dust exposure level, probably due to the large variation in duties of the cotton gin worker over the years. Yet it appears that the same response pattern to cotton dust found in textile workers also was occurring in ginworkers.

An Australian study (*70*) of the cottonseed lint removal and crushing industry found high concentrations of dust ranging from 15 to 37 mg/m^3. Workers exposed to such concentrations showed a significant fall in FEV_1, whereas workers in the same plant not exposed to cotton dust were not affected. In a study of six cotton-garnetting plants in Australia, lung function tests of the machine operators showed an average decline in FEV_1 of 0.12 liter, with more than twice this decline in the most dusty areas. (*71*)

A British study of twenty-two mills representative of the waste cotton industry was undertaken in 1950. (*72*) Although the workers had never been exposed to any dust hazard other than waste cotton, disabling byssinosis occurred in 5 percent of the men, with 25 percent of the workers having lesser degrees of the same disease. Bronchitis or emphysema were found in an additional 11 percent of the exposed workers who had no indication of byssinosis.

In addition, the agency is aware that even within one industry, such as the textile industry, certain processes may generate dust of different composition and varying toxicity. OSHA has considered the suggestion that different standards based upon industry specific epidemiological evidence be established for the different industries involved and perhaps even for the varying processes within each particular industry. However, there is a lack of data indicating that exposure to cotton dust affects workers differently in the various affected industries, specifically, that workers react in a manner dissimilar to that of the textile workers. Indeed, the evidence which is available supports the view that exposure to cotton dust, regardless of the stage of processing in which the dust is encountered, results in byssinosis and other respiratory diseases. It is OSHA's view that the need to protect workers in all industries utilizing cotton outweighs the constraints upon regulatory action which might be advocated because of the fact that much of the epidemiological data has arisen from one segment of the cotton industry. OSHA invites comments and testimony concerning the scope of this cotton dust standard.

B. PERMISSIBLE EXPOSURE LIMIT

1. *General considerations.* Considerations involved in setting a permissible exposure limit for cotton dust are more complicated than those in setting a standard for a single chemical or physical agent. As noted, cotton dust may contain a mixture of many substances (*45, 46, 69*) including ground up plant material, fiber, bacteria, fungi, soil, pesticides, non-cotton plant material and other contaminants. The relative proportion of these substances in the "cotton dust" at any time can vary depending upon the type of plant, harvesting and storage methods, and cleaning operations, both at the gin and in subsequent processing. The causative agent(s) of byssinosis are not known. Various theories have been advanced, including that the causative agent in the cotton dust is one or more chemical toxins (*47*) contained in the plant material, a histamine releasing agent, (*48, 49*) bacterial enzymes, (*50*) an antibody producing agent, (*51, 52*) or bracteria. (*53, 45*)

Since the causative agents are not known and since the composition of cotton dust can and does vary, it is reasonable to expect variation in the proportionate amounts of causative agents in various types of cotton dust. Nevertheless, despite these anticipated but as yet unspecified variations, the evidence available clearly indicates that exposure to cotton dust, wherever it occurs, is a health hazard.

A correlation between cotton dust concentrations and the prevalence of byssinosis has been found by most investigators who have studied the effects of exposure of workers to cotton dust. (*1, 19, 30, 51, 55, 57, 58*). However, the dose response relationships obtained by different investigators vary considerably. One or more of the following factors may explain some of these differences in prevalence of byssinosis observed by investigators at comparable dust levels:

(a) *Observer differences.* Prevalence of byssinosis has been based in part upon questionnaire responses. Therefore, there is the possibility of different interpretations of questionnaire responses by different observers, leading to varying diagnoses.

(b) *Difference in worker response to questions.* Braun (*19*) has pointed out the lack of uniformity of questionnaire responses when administered to the same individuals at different times. Questions may be given different interpretations by workers in various regions (linguistic difficulties may compound this); (*59*) some workers may tend to minimize, while others may exaggerate, symptoms.

(c) *Length of exposure.* Some studies have correlated prevalence of byssinosis with years of exposure per given dust level; others have not. An employee population with relatively brief exposure may be associated with lower prevalence at given dust levels.

(d) *Previous exposure history.* Some workers may have been previously exposed to very high dust concentrations making them very reactive to lower dust levels, even after environmental conditions are controlled.

(e) *Different toxicity of dust.* Dust generated by different processes, such as carding versus spinning, may have different toxicity. (*55, 56*) Weaving dust often contains considerable amounts of sizing material, such as starch or polyvinyl alcohol, which has been added to

the fiber to aid further processing. Cotton grown in different regions may have variable amounts of microorganisms, and presumably different proportions of plant and extraneous material. Cotton blend mills may have significant amounts of synthetic particles in the dust samples.

In summary, despite these differences, a correlation between cotton dust concentration and the prevalence of byssinosis has been found by most investigators who have studied the effects of exposure on cotton workers. (*6*)

2. *Permissible exposure limit.* The proposed standard sets a permissible exposure limit of 200 micrograms of vertical elutriated cotton dust per cubic meter of air average over an eight hour work shift. In ariving at this level, consideration was given to many different recommendations presented in the literature, particularly the recommendations of NIOSH as expressed in the criteria document and subsequent memoranda.

In general, most research demonstrates a decrease in disease prevalence with decrease in dust levels. In addition, although some variation exists among investigators, especially in the area of relation of exposure to clinical effects and to the development of chronic disease, it appears that exposure to cotton dust is clearly harmful over a wide range of exposures, and, in fact, recent studies show a higher prevalence of byssinosis at even lower dust levels than evidenced by earlier studies.

Roach and Schilling (*1*), in the 1950's, the first to conduct extensive studies in British textile mills of the relationship of dust levels to the prevalence of byssinosis, found "virtually no byssinosis" where total dust concentrations were below 1000 ug/m³. Subsequently, in 1970 Roach (*54*) noted a 1.5 percent prevalence at concentrations of fly-free dust below 500 ug/m³. He therefore suggested that less than 400 ug/m³ be considered "negligible" and that concentrations between 500 and 1400 ug/m³ fly-free dust be considered low, producing an estimated risk of less than 2 percent of those exposed developing chronic impairment (Grade 3 byssinosis). The British Occupational Hygiene Society appeared to be in general agreement with Roach, when, in 1972, its Subcommittee on Vegetable Textile Dust recommended that dust levels of 500 ug/m³ be categorized as "low."

Merchant, (*51*) et al. however, in his studies of textile mills in the U.S., reached the conclusion that 500 ug/m³ would result in a 25 percent prevalence of all grades of byssinosis. The investigators, using the vertical elutriator, found a strong linear association between the prevalence of byssinosis and the concentration of lint-free dust (less than an aerodynamic equivalent diameter of 15 microns). In cotton preparation and yarn areas, untreated cotton was shown to produce 3 percent byssinosis (all grades) at 50 ug/m³, 7 percent at 100 ug/m³, and 13 percent at 200 ug/m³. These findings were in general agreement with the findings of Molyneux and Tombleson. (*66*)

Imbus and Suh, (*18*) in a 1973 study of the biological effects of cotton dust on workers, also showed significant prevalence of byssinosis at low levels of exposure. At concentrations below 250 ug/m³, the prevalence ranged from 13.5 percent in preparation areas to 3.5 percent in yarn areas, with 5.7 percent in both preparation and yarn areas.

NIOSH initially did not recommend a specific exposure limit in its criteria document, rather, the document was primarily directed toward medical screening, work practices, respiratory protection, and administrative controls. However, it recommended that engineering controls be implemented and that an environmental standard be set at the lowest level feasible. Later modification of the criteria document posited a level "in no case as high as 200 ug lint-free cotton dust/m³" as being the "lowest feasible limit."

In determining how best to regulate employee exposure, OSHA has considered options ranging from no environmental limit to a specified environmental level ranging from 1000 $\mu g/m^3$ total dust to 100 $\mu g/m^3$ respirable dust as follows:

(A) *No permissible exposure limit.* OSHA has considered setting a standard for cotton dust without defining a specific permissible exposure limit. Reliance would be primarily upon medical screening, work practices, respirators, and administrative means.

However, OSHA believes that this option places too great a reliance on the use of respirators, and places too many workers at risk. It also does not provide suitable incentive for the institution of engineering controls, which are considered to be the most appropriate form of long term protection against chronic disease.

(B) *Options which include a permissible exposure limit.* In setting a permissible exposure limit, there are a variety of options. Those options which appear to be the most reasonable are discussed below.

(i) A different permissible exposure limit for different industries and processes. Ideally this may offer the most precise method of establishing the lowest feasible level for each affected industry. However, because data are not available with which to scientifically set different limits, OSHA believes that this option is not feasible. In addition, variation in the hazard appears to depend upon many factors other than process.

(ii) A permissible exposure limit of 1000 ug/m³ total airborne dust. This is the current OSHA standard and is based upon the original ACGIH threshold limit value of 1966. However, in the past few years, even the proponents of this level have proposed standards based upon fine or respirable dust. It has been found that observed health effects are poorly related to measured total dust concentrations. OSHA is of the view that a permissible exposure limit based upon total dust would not adequately reflect the potential of the dust to adversely affect health.

(iii) Permissible exposure limit of 500 ug/m³ respirable dust. Some investigators have shown a "low" prevalence of byssinosis, generally less than 10 percent (all grades) and less than two percent grade 2, following exposure at estimated dust concentration levels of 500 ug/m³ respirable dust. (*6, 54, 55*) It appears that 500 ug/m³ respirable dust (as measured by the vertical elutriator) is roughly equivalent to 1000 ug/m³ total dust, a level viewed as inadequate in the above discussion.

Merchant concludes that 500 ug/m³ respirable dust would result in a prevalence of byssinosis of over 25 percent (all grades). Therefore, though 500 ug/m³ may be somewhat protective in a number of cotton processing operations, OSHA considers the work of Merchant and others as indicating that it is not sufficiently protective in many operations.

(iv) Permissible exposure limit of 200 ug/m³ respirable dust. As previously discussed, the American Conference of Governmental Industrial Hygienists, while recognizing that there was no readily measurable limit that would eliminate byssinosis, in 1974 established a Threshold Limit Value for cotton dust of 200 ug/m³ of dust composed of fibers less than 15 um. According to the work of Merchant, (*51*) there would be a predicted prevalence of byssinosis of 12.7 percent (all grades) and 3 percent (Grade two) at 200 ug/m³; other investigators (*54, 55, 60*) have found lower prevalence at these levels, but nevertheless conclude that some byssinosis will exist.

(v) A permissible exposure limit of 100 ug/m³ respirable dust. This level, proposed by Merchant (*51*) and others, (*62*) represents the safest limit of all the proposals considered. This does not mean, however, that even at this level no adverse health affects will be seen in the case of the susceptible worker. A permissible exposure limit of 100 ug/m³ is considered by OSHA, based on the available evidence in the technological feasibility assessment and elsewhere, to be extremely difficult to implement, if not totally infeasible in many operations covered by this standard. In addition, because background air contamination in a number of industrial locations approaches this suggested level, (*6*) it creates difficulties due to interference by particulate matter from other sources. The question has also been raised as to the accuracy and difficulty of sampling methods at this level. NIOSH (*6*) concludes: "The feasibility of achieving a level of 100 ug/m³ as measured by the vertical elutriator in the operating areas of opening, picking, carding, drawing, and combing is not now evident using commercially available dust removal equipment."

(c) *The Proposed Permissible Exposure Limit.* The proposal contains a permissible exposure limit of 200 ug/m³ of vertical elutriated cotton dust averaged over an eight-hour work shift. OSHA believes that much of the data would provide strong justification for a 200 ug standard. Based upon its own evaluation of the

studies, the ACGIH has established a Threshold Limit Value of 200 ug/m³ of the respirable fraction of cotton dust.

In the criteria document, NIOSH stated that there is "no environmental limit of cotton dust that will prevent all adverse effects on workers' health." Merchant et. al. found cases of byssinosis associated with dust levels as low as 50 ug/m³. (*51*) Statistical treatment of the data of Molyneux and Berry, (*55*) and Imbus (*18*) and Suh, indicates some prevalence of byssinosis at exposure levels so low as to be effectively zero. These data cannot be ignored. Accordingly, OSHA recognizes the absence of any known "safe level of exposure." When it proposes a permissible exposure limit of 200 ug/m³ of respirable cotton dust, which it considers to be the "lowest feasible," OSHA feels that considerable reduction of work place exposure accompanied by a substantial decrease in byssinosis, particularly the chronic variety, can be achieved at this level.

Although OSHA's first and prime responsibility is to assure employees safe and healthful places of employment, the Act and its legislative history recognize that feasibility is a legitimate factor to be considered in the setting of occupational safety and health standards. In setting standards for which no safe level of exposure can be shown, such as cotton dust, OSHA's policy has been to set the standard at the lowest level feasible.

Even though the limit of 100 ug/m³ recommended by Merchant et. al. does not provide, according to their data, complete protection against the symptoms of byssinosis, it is so low that background dust levels in some cases could interfere with accurate determinations of cotton dust levels and with attainment of the required dust level. Implementation of this or lower levels would appear to require efficient filtration of outside makeup air entering the ventilation system in many areas. (*63, 76*) In addition, a survey of the technological capabilities of the industry at this time and during the foreseeable future indicates that a level of 100 ug/m³ is not likely to be feasible. (*77*)

Therefore, on the basis of all the currently available evidence, 200 μg/m³ of respirable cotton dust appears to represent the lowest feasible level, and to provide substantial protection for employees exposed to cotton dust.

The proposed standard would require implementation of medical surveillance, monitoring, employee training, and the like in any place where cotton dust is present. Thus, where a permissible exposure level is not a "safe" level but rather a level predicated largely upon feasibility, caution requires the exercise of certain protective measures if there is any exposure to the substance.

OSHA is aware of gaps which exist in the data, and intends to review its estimate of feasibility and other factors relevant to setting a cotton dust exposure limit if warranted by additional evidence presented in the rulemaking process.

(c) *Methods of exposure measurement.* 1. *Sampling devices.* Cotton dust ranges in size from particles large enough to be visible to the naked eye to those which are submicron in size. The shape of the particles is also irregular. Therefore, particle size is equated with the "aerodynamic equivalent diameter," i.e. the size of a unit density sphere having the same settling velocity as the particle in question, of whatever size, shape or density. Most investigators (*41, 51, 66*) currentlyy agree that a better correlation exists between respirable dust and health effects, since total dust measurements include a significant fraction of particles which are too large to be deposited in the respiratory tract. Medical and environmental evidence presently favors the use of a permissible exposure limit based upon respirable dust. Many of the more recent studies have involved the use of the vertical elutriator for measuring employee exposure to cotton dust. While this method collects somewhat more than the respirable fraction, including particles up to approximately 15 microns in size, exposure data derived from the use of the vertical elutriator have generally been shown to correlate well with indicators of biological response.

The vertical elutriator utilizes the principle that particles with settling velocities less than the velocity of an air stream will be carried upward by a stream of air in a cylinder. The flow rate of 7.4 liters/minute is required to achieve cut off size at 15 um. The larger particles, with settling velocities greater than that of the vertical air stream, will settle out during their course of upward motion and will not be measured, whereas the smaller particles reach the top and are collected on a filter.

The vertical elutriator as discussed above is described by Lynch.(*64*) Its use in the field, both for research and periodic monitoring purposes, has been accepted. The vertical elutriator, including pump, is approximately three feet in height, 6 inches in diameter and weighs approximately 15 lbs.; therefore, its use at its current stage of development requires fixed sampling sites.

Determining exposure to cotton dust in a large plant may require many samples. Since several hours are required for each sample, it is obvious that to complete the sampling in several days, a number of units must be used simultaneously. Some other problems in using the vertical elutriator are: the necessity of relatively regular maintenance for its motors; the time consumed in the process of pre- and post-sample weighing of filters; the difficulty of calibration and maintaining calibrated flow rates; and, because of their size, the number of samplers susceptible to damage during transportation.(*65*)

Other sampling devices have been tested and utilized for collecting respirable cotton dust. One that has offered some promise is the GCA dust collector with miniature vertical elutriator attachment, as reported by Neefus.(*65*) This device utilizes the principle of a radioactive source to determine the amount of impacted dust. At higher dust levels (generally above 700 ug/m³), its correlation with the vertical elutriator results is erratic.

The use of the horizontal elutriator and Hexhlet was also reported by some investigators. (*1, 17, 63*) Lumsden (*17*) has described a cyclone apparatus attached to a high volume sampler; however, this is even more bulky, expensive, and complicated than the vertical elutriator. OSHA invites comments on the present state of the art of samplers capable of size-selective sampling of cotton dust.

In view of several important advantages of the vertical elutriator; its availability, extensive experience with its use, proven reliability and, most importantly, its ability to monitor exposure to respirable dust, the proposal requires the use of the vertical elutriator in accordance with Appendix A, "Air Sampling and Analytical Procedures for Determining Concentrations of Cotton Dust," for conducting the required monitoring.

2. *Personal Versus Area Sampling.* There are definite advantage in relating a dust concentration measurement to a particular employee's exposure. Thus, wherever possible, OSHA has considered the use of personal sampling devices that can be worn by an employee through the working day to be superior to area samplers even though OSHA recognizes the use of area sampling for periodic environmental monitoring. Presently, OSHA is using a personal sampler consisting of a portable pump to which an open face filter is attached by means of flexible tubing. The filter is then attached to the employee's lapel or collar. Though OSHA has considered this method more representative of employee exposure, it does present certain disadvantages. It is prone to contamination with fiber and large dust particles due to actual contact of the employee with cotton lint that gathers on the employee's clothing. Likewise, undue agitation of the filter may result in loss of the sample. Wide variation of cotton dust concentrations for workers performing similar jobs in the same area have been reported using this method. While some of this variation may be attributable to varying work activities, it is possible that much of it may be due to the collection method itself. Ideally, a small device which could be attached to individual employees and which would collect only smaller particles would be more suitable. Such a device should not be unduly influenced by the continuing motion of the employee. Some work has recently been done in developing a portable vertical elutriator. However, flow rates for such a small device are quite low and unless dust concentrations are high, it must be worn for an impractically long period of time in order to collect an adequate sample. Also, the potential problem of variability of results due to agitation of air currents from motion of the employee has not been fully evaluated.

Since data presently available indicate the desirability of basing a standard upon respirable dust, OSHA considers it

appropriate to base its permissible exposure limit upon that fraction of dust with an aerodynamic equivalent diameter of approximately 15 microns or less. Currently there is no satisfactory method known to OSHA of collecting such a dust fraction with a personal type sampler. Thus area sampling with a vertical elutriator is proposed. Area sampling has long been used by industrial hygienists and if properly conducted to reflect breathing zone levels of contaminants, can, together with accurate estimates of employee activity, reasonably assign dust exposure to particular employees.

Due to the difficulties of cotton dust sampling, the proposal requires a specific monitoring protocol, as stated in Appendix A, "Air Sampling and Analytical Procedures for Determining Concentrations of Cotton Dust."

D. *Exposure monitoring program.* Under the provisions of the proposal, employers would be required to make measurements in all places of employment in which cotton dust is present.

The measurements are required to be representative of all employees' exposure to cotton dust. Measurements must be taken for each job classification in each shift regardless of concentration, and must be repeated at least every 6 months and whenever there is a change in work practices, process, or control methods likely to result in an increase in employee exposure to cotton dust.

The employer must notify all employees of the exposure measurements which are representative of their exposure and if an employee's exposure is above the permissible exposure limit he shall be informed of the corrective action being taken.

E. *Methods of compliance.* Compliance with the proposed standard of 200 ug/m³ presents unique problems. From evidence currently available, it appears that most affected industries are unable to comply immediately with OSHA's traditional priority of control methods which requires that the permissible exposure level be achieved by means of engineering controls. Accordingly, this proposal would phase in, over a period of 7 years, the requirement to reach the permissible exposure limit solely by engineering controls, while requiring the immediate achievement of that level through the use of respirators, as set out below.

The proposed standard would require that employers immediately institute feasible engineering controls to reduce employee exposure to cotton dust to no more than 500 ug/m³ vertical elutriated cotton dust. The permissible exposure limit of 200 ug/m³ would be achieved by means of supplementary and respiratory protection controls. Further reduction to 350 ug/m solely by means of engineering controls would be required within 4 years from the effective date of this standard. Again the permissible exposure limit of 200 ug/m³ would be achieved by means of supplementary respiratory protection controls.

Finally, a reduction to the permissible exposure limit of 200 ug/m³ solely by means of engineering controls would be required within 7 years from the effective date of this standard.

The employer would be required to develop a written plan and to implement a program in accordance with that plan to reduce exposures solely by means of engineering and work practice controls as required by the above schedule.

OSHA's first and prime responsibility is to assure employees safe and healthful places of employment. The Act and its legislative history however recognize that feasibility is a legitimate factor to be considered in the setting of occupational safety and health standards. The information gathered on the issue of technological feasibility suggests great difficulties in immediately achieving the proposed level solely by means of engineering and work practice controls. Based upon this information, it appears that reduction of exposures to 350 ug/m³ solely by means of engineering and work practices controls, in cotton yarn production, could not be achieved in less than 4 to 5 years; and that achieving compliance with the exposure level of 200 ug/m³ solely by means of such controls would take considerably longer, perhaps 8 years or more. Implementation time for the other industry sectors, such as ginning, weaving, and waste processing, is more difficult to assess. A reduction of exposure to 500 ug/m³ may be attainable with existing control devices, but below that level several years would be necessary for design, manufacture and installation of the required controls in many affected establishments. (*76, 77*)

The primary determinant of these time estimates is the ability of the regulated industry to design, produce, and install equipment that will reliably produce the required level of control. At best, a typical yarn mill may require 18 to 24 months for the steps involved, from the preliminary planning to specifications, contracting, delivery, installation, testing, and full operation of engineering controls.

The technological restraints, illustrated by this discussion, on achieving the degree of dust control required, solely by means of engineering and work practice controls, indicate that it is virtually impossible to achieve a level of 200 $\mu g/m^3$ solely by these means, in less than several years. Accordingly, the proposed cotton dust standard includes a schedule for the primary purpose of establishing the maximum time periods in which employers will be allowed to achieve the permissible exposure level solely by means of engineering and work practice controls. However, the proposal requires that where the permissible exposure level of 200 $\mu g/m^3$ cannot be accomplished immediately by engineering controls that supplementary respiratory protection controls shall be used to reduce exposures to this level.

F. *Use of respirators.* Respirators are generally the least satisfactory means of exposure control because they are capable of providing good protection only if properly selected, properly fitted, worn by the employee, and replaced when they cease to provide adequate protection. While it is possible for all of these conditions to be met, often they are not. Consequently, the protection of employees by respirators is not as effective as the protection provided by engineering controls which eliminate or reduce the dust at the source. Further, employees with impaired respiratory function may not be able to wear certain types of respirators, such as those operating in the negative pressure mode.

Despite the inherent difficulties associated with respirator use, they remain the only viable form of protection when engineering and work practice controls cannot reduce exposure below the permissible limit. The proposed standard requires the use of respirators to control employee exposure to the permissible exposure limit of 200 ug/m³. As specified under the methods of compliance section, respirators would be used as a supplement to work practice and engineering controls. The proposal would require the employer to select respirators specified in the table and tested and approved by NIOSH.

The proposed standard provides that, where respirators are required for concentrations not greater than 10,000 ug/m³, the employer shall provide a powered air purifying respirator for each affected employee who expresses a preference for such a device. The wearing of a non-powered respirator may be difficult for medical reasons, e.g., reduced pulmonary function or chronic lung disease. The significant prevalence of such conditions among employees exposed to cotton dust and the extent of initial reliance on respirators to achieve the required exposure reduction suggest that there will be numerous employees who would find it difficult to wear respirators of a negative pressure or demand type. Since there are no objective medical tests to determine an employee's ability to wear a nonpowered respirator, the determination must be left to the subjective evaluation of the employee.

G. *Work practices.* OSHA recognizes that in most processes in which cotton dust is present, even exposures below the permissible exposure level may be harmful, as there is no "safe" level of exposure. Therefore, definite work practices and procedures must be instituted to control employee exposure.

These work practices must be continued even after the permissible exposure level is attained.

The proposal requires that several work practices be implemented including the proper maintenance of exhaust systems; the elimination of employee "handling" of cotton except where the employer shows that it is infeasible to perform a particular job by mechanical means; prohibition of "blow downs" except where alternatives are not available; and other practices designed to minimize the dispersal of airborne dust.

H. *Medical surveillance procedures.* The proposed standard requires each employer to institute a medical surveillance program for all employees exposed to cotton dust. The role of medical surveillance in protecting the health of employees exposed to cotton dust has been widely recognized by many investigators.

The NIOSH criteria document provided recommendations for a medical surveillance program. Section 6(b)(7) of the Act provides the authority to include medical surveillance in an OSHA standard. The Act states:

> * * * where appropriate any such standard [promugated under subsection 6(b)] shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure

The proposed standard requires that the medical surveillance program provide each affected employe with an opportunity for medical examination. All examinations and procedures are required to be performed by or under the supervision of a licensed physician and provided without cost to the employee. While a licensed physician is clearly the appropriate person to be conducting a medical examination, certain aspects of the medical surveillance program, e.g., the questionnarie and pulmonary function tests, do not necessarily require the physician's expertise and may be conducted by another person under the supervision of the physician. Of concern to OSHA is the quality of training of the persons administering the questionnaire and conducting pulmonary function tests. At the time of this proposal, there is no approved and generally recognized source of training for pulmonary function technicians. OSHA is seeking specific suggestions for inclusion in the standard of criteria by which an employer can determine which persons are competent to conduct these tests. Additionally, OSHA has requested NIOSH to provide specifications for appropriate procedures and equipment to be used in performing pulmonary function evaluations for this and certain other health standards.

The proposed standard provides that a standardized respiratory questionnaire (Appendix B) and pulmonary function measurements including FVC and FEV_1 be performed at the time of initial assignment or upon institution of the medical surveillance program. The purposes of this requirement are to make an initial assessement of the fitness of each employee to be exposed to cotton dust and to establish a baseline health condition against which changes in an employee's health may be compared. The pulmonary function measurements are required to be performed before the employee enters the workplace on the first day of the working week, following a period of at least 35 hours away from work. The test will be repeated following exposure of no less than 4 hours and no more than 10 hours, but in any event no more than 1 hour after cessation of exposure. A determination will be made of the amount of FEV_1, the FVC and the percentage that the measured values of FEV_1 and FVC differ from predicted values using the standardized tables in Appendix C. The regulation specifies the formula to be used for applying the tables to results obtained in whites and blacks. OSHA requests information on formulas which should be used for evaluating results of pulmonary function among other ethnic groups.

FEF 25–75 percent has been considered for inclusion since at low lung volume it may be a more sensitive early indicator of airway obstruction than FEV_1. No. additional breathing maneuvers by the workers or new apparatus for pulmonary function testing are necessary, only the slight additional training of the technician to make this calculation from the forced expiratory curve. OSHA solicits information and views concerning whether FEF 25–57 percent should be required.

Each employee will be classified based upon questionnaire results as to whether or not he exhibits symptoms of byssinosis using the Schilling classification, and whether or not he exhibits the pulmonary function reactor state. The latter will be based upon a determination as to whether there is a decrease in FEV_1 of either 5 percent or 200 ml, whichever is less, from the beginning of work shift to the time of retesting. Employees will be retested on at least an annual basis. The FEV_1 and FVC will be compared with the baseline established on the original testing and a determination will be made on an annual basis of whether there has been a significant decrease of FEV_1 or FVC. Where in the opinion of a physician, or health professional under the supervision of a physician, a significant change in questionnaire findings or pulmonary function results has occurred, the employee will be so advised, and portions of the medical surveillance will be performed with increased frequency.

The employer is required to provide the physician with certain information. This information includes a copy of the regulation, a description of the affected employee's duties as they relate to the employee's exposure, the results of the employee's exposure measurement, if any, or the employee's anticipated or estimated exposure level, a description of any personal protective equipment used or to be used, and information from previous medical examinations of the affected employee to the extent that they are not readily available to the physician. The purpose in making this information available to the physician is to aid in the evaluation of the employee's fitness to work in the regulated area and fitness to wear personal protective equipment.

The employer is required to obtain a written opinion from the examining physician containing: the physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to cotton dust; the results of the medical examination; recommended limitations upon the employee's exposure to cotton dust and upon the use of respirators; a statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

The proposed standard also contains a procedure to be followed by the employer in the event that an employee refuses to undergo any required examination. This procedure involves informing the employee of the potential risks that are incurred by a refusal to be tested or medically examined, and obtaining from the employee a signed statement attesting to the fact that the employee fully understands the potential risk, but still does not wish to be tested or examined. It is not the intent of OSHA to encourage employees to avoid medical examination or testing. On the contrary, OSHA believes that the positive action taken by employers to inform employees of the risks involved will encourage employees to undergo the examinations.

The proposed standard does not include a provision prohibiting the exposure of an employee to cotton dust if the employee would be placed at increased risk of material impairment of his or her health from such exposure. Nor does the proposal include any provision requiring the transfer of such an employee to another job, or that removal for medical reasons would not result in loss of earnings or seniority status to the affected employee. Provisions of this type have been referred to collectively as rate retention and mandatory removal.

The Coke Oven Emission standard (41 FR 46742 at page 46780, October 22, 1976) addresses the major considerations which must be dealt with in determining how to treat this issue. The conclusion reached by OSHA in that document is that.

> * * * further exploration of this (the rate retention) issue is necessary in order to deal in considerably more depth with the numerous issues raised by such a provision. It is therefore our intention to conduct further study, through an Advisory Committee or other means, of the need and implications of rate retention as an aspect of an OSHA health standard. On the basis of this study, the Agency will take further action under the Act, as appropriate, regarding rate retention.

In the meantime, with respect to the cotton dust proposal, OSHA specifically invites comment on the issues related to the propriety, scope and implications of a rate retention requirement in this standard, including: the number of employees who would be at increased risk from exposure to cotton dust at levels below 200 ug/m³; the range of rate retention provisions available and their relative merits; pertinent medical information related to determining when a condition is caused by agents other than cotton dust, e.g. a pre-existing respiratory condition, and, if so, whether an employer should be responsible for such an employee's retention of pay rate where said condition results in transfer or mandatory removal; the impact of such a provision on the affected industries, including the impact on collective bargaining; and possible alternatives to employee withdrawal.

The unique aspects of cotton dust exposure which make treatment of this issue so complex, are (a) the number of employees who are presently known to suffer from byssinosis and other res-

piratory conditions and, (b) the uncertain number of employees projected to be reactive even at levels below 200 ug/m³. The existence of such employees, coupled with the fact that the industries involved do not seem to present a significant number of non-exposure job positions, make this a particularly difficult matter in this proposal.

I. *Employee Education and Training.* Information and training are essential for the protection of employees, because employees can do much to protect themselves if they are informed of the nature of the hazards in the workplace. To be effective, however, an employee education system must apprise the employee of the specific hazards associated with the work environment. For this reason the employer is required to inform each employee who is assigned to work in the presence of cotton dust of the specific nature of operations which result in cotton dust exposures.

The proposal requires that employees be trained in proper procedures to avoid unnecessary exposure. In addition, the proposal requires that employers provide a training program which shall, among other things, advise employees of the signs and symptoms of exposure to cotton dust and the purpose, proper use, and limitation of respirators. In addition to these training and education requirements, appropriate signs must be posted wherever employees are required to wear respirators.

J. *Recordkeeping.* Section 8(c) of the Act requires that each employer shall keep and make available such records as the Secretary may prescribe as necessary or appropriate for the enforcement of this Act, or for developing information regarding occupational accidents and illnesses. The proposal would require employers to maintain written records of the following: (1) All exposure measurements; and (2) medical surveillance.

Because symptoms of disease that may be related to exposure to cotton dust may not appear for several years following an initial exposure the proposal requires that records of employee exposure measurements and medical examinations be retained for at least 20 years to aid in fulfilling the Secretary's obligations under the Act.

The proposal's recordkeeping provisions also require that the aforementioned records be made available for examination and copying to the Secretary, the Director of NIOSH, employees, former employees or their designated representatives.

K. *Observation of monitoring.* Section 8(c) (3) of the Act requires that employers provide employees or their representatives with the opportunity to observe the monitoring of exposures to toxic materials or harmful physical agents. In accordance with this section, the proposed standard contains a provision for such observations. To ensure that this right is meaningful, observers would be entitled to an explanation of the measurement procedure, to observe all steps related to it, and to record the results obtained.

The observer, whether an employee or a designated representative, must be provided with, and is required to use, any protective devices required to be worn by employees working in the area that is being monitored and must comply with all other applicable safety and health procedures.

V. Conclusions

OSHA recognizes that many of the matters considered in this proposal are controversial and that gaps exist in the available scientific evidence. OSHA believes, however, that in this case we are dealing with an agent or agents that are extremely harmful to man. The existence of unanswered questions cannot be permitted to delay the process of proposing a standard for protecting workers exposed to cotton dust, as tens of thousands of workers are believed to suffer from the effects of exposure. OSHA hopes that the public participation which is invited will help to fill whatever gaps exist.

Therefore, based upon the available evidence and in view of the above considerations, OSHA believes that employee exposures to cotton dust must be reduced to the level of 200 ug/m³ of vertical elutriated particulates and that the other requirements to regulate exposure to cotton dust must be imposed, as set forth in the proposal. After the conclusion of the public rulemaking which follows, OSHA will evaluate all evidence received and issue a final standard based on the entire record.

VI. Technological Feasibility Assessment and Economic and Inflationary Impact Statement

Pursuant to section 6(b) of the Occupational Safety and Health Act and in accordance with Executive Order No. 11821 (39 FR 41501, November 29, 1974), OMB Circular A-107 (January 28, 1975), and Secretary's Order No. 15-75 (40 FR 54484, November 24, 1975), OSHA contracted for and received a technological feasibility assessment and economic and inflationary impact statement from Research Triangle Institute. The statement was reviewed in accordance with the criteria specified in section 5(c) of the Secretary's Order, and OSHA concluded that the proposed regulations of cotton dust is a "major" action and so certified pursuant to section 4(b) of the Secretary's Order, on September 2, 1976.

This certification was reviewed by the Assistant Secretary of Labor for Policy, Evaluation, and Research. Pursuant to section 4(b) of Secretary's Order No. 15-75, concurrence was granted on September 7, 1976.

This statement along with all other references cited and other relevant material, are available for inspection and copying at the OSHA Technical Data Center, Room N-3620, 200 Constitution Avenue, NW, Washington, D.C. 20210. OSHA invites comments on any of the information contained and conclusions drawn in said statement concerning technological feasibility and economic and inflationary impact.

VII. Environmental Impact

The preceding description of the proposed standard and its rationale, as well as the following sections on environmental impact, constitute OSHA's draft environmental impact statement on the proposed standard for occupational exposure to cotton dust.

This statement has been prepared in accordance with the requirements of 29 CFR Part 1999 (OSHA's regulations for the preparation the Guidelines of the CFR Part 1500, pursuant to the provisions of the National Environmental Policy Act (Pub. L. 91-120, 42 U.S.C. 4321 et. seq.) and Executive Order No. 11514. The purpose of this draft environmental impact statement is an aid to Agency decision-making on proposed actions which may have the potential for significantly affecting the quality of the human environment. Written comments and information on the projected impacts of this proposed standard for exposure to cotton dust are solicited from any interested persons or groups during the period for written comment submissions listed below in this Notice.

In addition to this general request for comment, copies of this proposal and environmental impact statement have been sent to numerous Federal and State agencies, industry representatives, employee unions, and public interest groups with requests for their comments. A copy of this listing is available in the OSHA Technical Data Center, Room N-3620, Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

Testimony, data, arguments etc. may also be addressed at the public hearing to be held on this proposed standard April 5, 1977, provided pre-hearing submission requirements, also outlined below, are complied with.

Additional copies of this proposed standard and draft environmental impact statement are available for review and copying in the OSHA Technical Data Center.

Standards promulgated by OSHA have the potential for impact on two environments. The most significant impacts will occur to the workplace environment, while lesser impacts occur to the general human environment external to the workplace.

The first five sections of this preamble to a proposed standard for occupational exposure to cotton dust outline the requirements of the proposal and the impacts to be expected as a result of its implementation. Generally, the impacts on the workplace environment are expected to be beneficial ones, including: fewer cases of byssinosis, fewer cases of dust-induced respiratory symptoms, fewer lost workdays due to dust-induced illness, etc. The preamble details the studies and reports on which OSHA bases its assumption that these beneficial impacts will occur. Further, it is anticipated that more information concerning the proposal's potential for impacting the workplace environment will be introduced during the course of the

public comment and hearing period of this rulemaking proceeding.

A standard for control of occupational exposure to dust also has the potential for affecting the external air quality, water quality, waste disposal (a function of land use, air quality and water quality), energy consumption, and human resources. These will be discussed in the following section on environmental impacts external to the workplace. Economic costs of implementing an occupational health standard have also been determined to have the potential for impacting the general human environment. A summary of these costs is given in the following discussion.

A. ENVIRONMENTAL IMPACT—EXTERNAL TO WORKPLACE

This section discusses the anticipated impacts, accruing to the general human environment external to the workplace, which may result from implementation of the proposed standard for control of cotton dust exposure in the workplace. The bulk of the analysis is concerned with the impacts resulting from exposure control in cotton gins and cotton textile mills. Data on the effects of exposure control in other industries, such as waste processing and cottonseed oil production were largely unavailable, but what information was obtained in those areas has been presented.

In a general sense, reduction of cotton dust exposures in these industries will involve improved housekeeping practices and improved methods for the collection and removal of cotton dust from the workplace. It is not anticipated that these actions will result in any significant adverse impact to the general human environment external to the workplace with respect to ambient air quality, water quality or solid waste. This conclusion, however, is judgemental, and is based on the similarity of these industries with other textile mills rather than on evaluation of actual data. Information on the potential for environmental impact resulting from implementation of OSHA's proposed standard in these other industries will be solicited during the rulemaking proceedings.

1. *Air Quality.* In assessing the impact of the cotton dust regulation on air quality, cotton ginning, since it is basically an open air operation, must be considered separately from textile mills and the rest of the cotton industry. Cotton gins are usually not entirely enclosed, but consist of various cleaning and ginning machinery under a roof, yet exposed to outside wind. Therefore machine emissions are easily transported into the ambient atmosphere, while the workplace itself is exposed to dust and particulates blown in from the surrounding environment. In addition, large volumes of dust-laden outside air are drawn into the gin for use in the pneumatic transport systems.

Cotton gins contribute varying degrees of suspended particulates to the atmosphere, depending upon the air pollution control devices installed on the exhausts (i.e., cyclones, lint cleaners, inline filters). (*79*) The composition of these particulates is fine-leaf trash, dust, lint and other trash generated during each step of the ginning process. It has been reported that the total particulate matter emissions of a typical gin, processing machine picked cotton at a rate of 10 bales per hour, varied from an average of 13.5 pounds to as high as 30 pounds of dust per hour. (*80*) Because stripper harvested cotton contains more trash, the total emissions from gins processing 10 bales/hour of stripper cotton, can range as high as 6–72 pounds per hour. (*81, 82*) Air pollution surveys conducted in Texas, near gins processing stripper cotton, have demonstrated increased suspended particulate level downwind from the ginning operations. (*79, 83, 84*) One study reported downwind particulate sample 5 to 18 times greater than those simultaneously measured upwind (upwind 487 ug/m^3; downwind 8800 ug/m^3). (*83*) Other data has also shown increased levels of fungi and bacteria measured downwind from cotton gins.(*84*)

The major sources of dust in ginning are the gin stands, lint cleaners, and bale press. Capture and filtration of air by redesign of the press plus maintaining negative air pressure in lint cleaners expected to be sufficient to achieve dust concentrations generally of both 500 ug/m^3 vertically elutriated (V.E.) dust and 200 ug/m^3 V.E.(*76*) However, contamination from atmospheric dust could present a significant problem in attaining levels lower than 200 ug/m^3 V.E.

In heavily polluted areas particulate values up to 2.0 mg/m^3 have been reported. (*85*) In the textile center of Greenville, SC, the median airborne particulate concentration measured in 1966 was 0.084 mg/m^3 and the 90% concentration was 0.15 mg/m^3.(*86*) When the gin emissions are added to this background level, the resulting particulate concentration of the atmosphere surrounding the gin will normally be well in excess of 0.1 mg/m^3.(*87*) Therefore, in order to achieve dust concentrations within the gin of 0.2 or 0.1 mg/m^3, the ginning process would need to be enclosed in a building provided with air filtering and air conditioning systems. Furthermore, it is likely that additional enclosures of dust emission sources will need to be implemented on the gin stands themselves to complement or replace the local ventilation hoods. Because of the need of visibility, complete enclosure of this machinery is infeasible. An alternative to this would be a redesign of the gin stands with the objective of keeping dust emissions to a minimum.

Since ginning contributes directly to the dust levels of the ambient air, any reduction of emissions by way of compliance with occupational health regulations will be beneficial to the external atmosphere as well. The most drastic reduction in ambient air pollution would occur as a result of enclosing the ginning machinery within an air conditioned building, which would essentially eliminate all contamination of the external atmosphere by industrial dust. This solution, however, since it would be required only to achieve the lowest levels of occupational exposure, and because of its economic infeasibility, is highly unlikely to be adopted. Application of cyclones, lint fly catchers, inline filters and condensor coverings will reduce the discharge of a significant portion of airborne emissions from the various cotton gin operations. It is estimated that 95 percent of the total lint and trash processed by ginning operations can be effectively controlled through proper application of control equipment. Quantification as to the extent of this reduction of particulate matter is not available. In any case, any reduction in industrial airborne dust levels would effect a similar reduction in ambient air pollution and would result in a relative increase in solid waste accumulation.

The major factors influencing levels of dust and lint liberated in the textile mills are the quality of cotton received from the ginning operations and processing conditions at the textile mill.(*88*) Cotton quality as it is received at the textile mill is dependent upon the variety of cotton, conditions under which it was grown, harvesting method and ginning practices. The significant difference in the trash content of cotton harvested by machine picking versus machine stripping has already been indicated. Significant progress has been made in the past years in reducing the trash content of cotton received at the mills (5.2 percent in 1946 to 2.8 percent in a comparable grade 1974 crop). This improvement is attributable mainly to better ginning techniques and increased use of cleaning machinery at the gin, especially lint cleaners. If the proposed reduction in occupational cotton dust exposures requires that ginning operations further clean the cotton through application of additional lint catchers, cotton dust levels within textile mills would be reduced as a consequence. Tests conducted by Cotton Incorporated have demonstrated that using lint cleaners at the gin actually causes airborne dust levels to be lower in the carding rooms of yarn mills.(*89*).

The various operations in cotton textile mills consist of opening, picking, carding, drawing, roving, spinning, winding, spooling, twisting, warping and weaving. Opening, picking, carding are the operations subject to the greatest amounts of airborne dust and lint in textile mills. The weaving operation also generates relatively high dust counts, however, the bulk of weave room dust apparently consists of the starch sizing used to treat the yarn, and not cotton dust.(*76*)

While dust concentrations vary among operations, control methods are basically the same throughout the textile mill. Effective dust removal depends on capture devices and efficient filtration methods. The degree of control can range from simple local exhaust ventilation to complete enclosure of machinery. The control methods required to achieve various levels of airborne dust concentration are roughly as follows: 1000ug/m^3 total dust (T.D.) concentration can be expected with dust capture devices and single stage filtration; 500ug/m^3 vertically

elutriated (V.E.) dust concentration can be achieved with two-stage filtration and air washing; 200ug/m³ V.E. will result from three-stage filtration and air washing; and 100ug/m³ V.E. would require complete equipment enclosure and stringent filtering of both recirculated and make-up air.(*76*)

It might seem that the exhausting of increased amounts of dust from the workplace air would result in greater contribution to the pollution in the ambient air surrounding the plant, but this is not the case. Direct exhaust to the external environment would be a violation of ambient air quality standards. It might also result in inadvertent reintroduction of high dust content air into the plant, negating the effect of the exhaust system. But the most compelling reason preventing the exhaust of workplace air is that it would represent a loss of air which has been conditioned for humidity and temperature as a quality control measure and would necessitate conditioning of make-up air, at substantially higher cost.(*90*)

Instead, the dust-laden air is processed through a filtration system and then returned either directly or via the central air conditioning system to the workplace. The collected dust ultimately accumulates in the waste house, increasing the amount of solid waste produced, as in ginning. Finally, textile mills do not now seem to contribute appreciably to air pollution in the surrounding environment, nor should they as a result of OSHA's regulation of cotton dust in the workplace.

Dust concentrations of 500 μg, 200 μg and lower can likewise be expected through similar control methods in waste processing and cottonseed oil mill.(*76*) There are not now any such stringent control systems in use, nor is there any data available from which to predict accurately the degree of control necessary to achieve specific exposure limit. But the similarity of the waste processing operations to yarn processing indicates that dust capture and filtration methods would be applicable to both. OSHA requests that further information on controls in these industries as well as in ginning, and on the environmental impacts of such measures be submitted during the public review and hearing period.

Before proceeding with a discussion on the disposal of gin trash, it should be pointed out that the U.S. Department of Agriculture, through its Agricultural Research Service, has been responsible for developing, testing and applying air pollution control technology to cotton ginning operations. For the most part, this research has centered around the application of high-efficiency cyclones and filters as a means to control atmospheric discharges.(*80, 91, 92, 93, 94, 95, 96*) There have been attempts by others to control emissions through skimmers.(*97*) and wet-scrubbing techniques,(*98, 99*) however, most cotton gins in the U.S. use high-efficiency cyclones and screen coverings on their condenser exhausts or inline filters for final lint control. Additionally, the Environmental Protection Agency is currently developing a source assessment document on cotton gins which contains emission factors and assesses the effect of ginning operations on ambient air quality. However, this report is still in the draft stage and is not presently available for distribution.

2. *Solid waste impact.* A second potential source for environmental contamination is the generation of solid waste. As stated above, reducing worker exposure to cotton dust will require collection of emissions, thus increasing the amounts of solid waste to be disposed. However, the bulk of the waste (i.e., burs, sticks, stems, leaves, and lint) is already being collected for reprocessing in a variety of ways to be discussed further on. Reducing worker exposure involves collecting the very fine, respirable dust that has been shown to be harmful to health. However, the actual amounts of this dust will probably be insignificant when compared to the tonnages of gin trash generated by modern gins.

When machine-picked cotton is ginned, this trash accumulates at the rate of 150 to 225 pounds per bale, and at about five times that rate for machine-stripped cotton.(*100*) Where space is not a limiting factor, and where the gin is located in a sparsely inhabited area, gin trash can be accumulated in an open pile and hauled away at the end of a season. In more densely populated areas, it may be collected in a truck or trailer and hauled away as a load accumulates. Optimally, the waste is stored in an enclosure designed to prevent it from blowing or scattering over the premises while it is being accumulated. Where large volumes of waste material are being handled within short periods of time, elevated storage hoppers are sometimes used.(*101, 102, 103*) The transfer of gin trash into or out of these various storage facilities and the transportaton by trucks could present a fugitive dust problem if proper care is not taken.

During the 1965–66 season, prior to strict clean air regulations and early harvest mechanization, a beltwide survey conducted by USDA showed that 37 percent of all gin trash was burned, 58 percent was hauled directly to the farm for use as an organic mulch on cropland, and the remaining 5 percent was disposed of by some other method.(*104*) However, under the Clean Air Act of 1970, open burning of gin trash is prohibited in all cotton-producing states with the exception of West Texas, where a high incidence of Verticillium Wilt prevents the return of gin waste to the land. Additionally, incinerating trash in "Teepee" or "Wigwam" burners is being discouraged by state air pollution agencies who now require that multiple-chamber incinerators be used.(*101*) Because of these restrictions on disposal, potential uses of gin trash are presently being investigated. Three major possibilities have been reported: cotton gin trash as a cattle feed; use of cotton gin trash as an organic mulch for cropland; and heat recovery from gin trash incineration.

In the West Texas areas, large tonnages of gin trash are used in cattle feed. Gin trash is a ruminant roughage of moderate protein and energy value. It can increase the carrying capacity of any range operation where year-round natural feed is limited.(*105*) It cannot be used if it has been contaminated by chemicals (i.e., herbicides, insecticides and especially arsenic acid dessicants). (*106*) And detoxification of trash contaminated by pesticides has not been shown to be feasible.

Gin trash can serve as a good cropland organic mulch if disease and other problems can be overcome. Composting has proved effective in destroying the Verticillium Wilt organism and in reducing weed seed viability.(*100*) However, if not properly handled, composting can become a nuisance by emitting offensive odors.

One of the most attractive applications of gin trash is incineration for production of heat to be used in the drying operation within the cotton gin. It is recommended that the moisture content of seed cotton be maintained between 6–8 percent; therefore, in cotton growing areas of relatively high humidity, dryers are used to bring the moisture level into the proper range.(*107*) It has been reported that incineration of machine-picked cotton trash will reduce the volume of the trash about 92 percent and produce from 1 million to 1.5 million BTU's bale. (*100*) A study conducted by Cotton Incorporated concluded that heat-recovery incineration would eliminate the need for 85 percent of the natural gas otherwise used for cotton drying if 30 to 35 percent of the total heat could be extracted.(*108*) They reported that the system worked well with the exception of creating particulate emissions in the stack gas. In view of the present concern over energy resources, the approach appears to be an attractive option for gin waste disposal. However, there does seem to be a conflict between saving energy and current clean air policy which will have to be resolved before this method is employed on a large scale.

Solid waste in the form of lint and other trash is generated during the yarn production process in cotton mills. This material is collected by filters and is ducted to a waste house where it is processed into a mat form by passing through a condenser. The waste fibers are doffed continuously into a receptacle located beneath the condenser. "A modern high-speed cotton card, for instance, producing 40 pounds of cotton sliver per hour, may produce 1.6 pounds of waste per hour. It is obvious, then, that a production unit of 39 such cards (which is not uncommon) would produce a 500 pound bale of waste in every 8 hour working shift."(*109*) This waste in turn may be sold to cotton waste processors to be used as batting, non-woven fabric and surgical dressings, mattresses and bedsprings, and spun yard.(*76*) Reducing worker exposure to cotton dust will involve collecting more lint-fly and trash from the work environment and thus will increase to some degree the amount of solid waste to be handled. Data is not

presently available on the additional amounts of this waste which will be collected as a result of this proposal. However, it is not believed that from an environmental standpoint, this additional amount of waste will cause unique problems relative to its sale or ultimate disposal. Throughout its processing, waste undergoes filtering and refinement. The material which is ultimately left over consists primarily of trash. The additional amounts of fly and fine dust collected as a result of OSHA's regulation, if not used in the products of waste processing, will contribute only a miniscule amount to the quantity of trash which is already being disposed, usually in landfills. Therefore, the solid waste impact resulting from this proposal is not considered to be significant. More information on the potential for solid waste impact will be solicited during OSHA's rulemaking proceeding.

3. *Water quality.* Wet-control methods to reduce worker exposures to cotton dust have not been identified as a probable method of compliance for the cotton ginning industry, and fewer than five gins in the United States utilize wet-scrubbing techniques to control air pollution emissions.(76) Additionally, past practices of dumping gin-trash directly into streams and waterways has ceased in almost all instances.

Compliance with reduced occupational exposure limits for cotton dust in textile mills will most likely involve increased hooding and capture devices and multiple-staged filtration of recirculated air. Since these mills are air conditioned, they presently employ air washing (with water) as part of the means to accomplish temperature and humidity control. However, these air washers are not designed as efficient air cleaners. The greater the dust and lint load allowed to enter these washers, the more maintenance they will require. Therefore, the air washers are usually preceded by some form of precleaner to prevent lint from entering.(76)

Wet separating techniques have been utilized to control dust exposure in other industries, however, they are not believed to be practical for cotton mills for a variety of reasons. The use of a wet separator preceding the air washer would make humidity control by the air washer more difficult.

Secondly, wet waste is more difficult to handle and reuse than dry waste. Finally, a wet dust separtor is likely to become inoperable if significant amounts of waste enter with the dust because of inefficiency or malfunction of the separating or concentrating equipment preceding the dust separator. (109)

For the above reasons, it does not appear that wet-control methods are of practical use in controlling cotton dust in textile mills. Thus, it is reasonable to assume that there will be no increased wastewater effluent generated because of the proposed standard. Consequently, it appears that there will be no significant water quality impact as a result of reducing occupational exposures to cotton dust.

4. *Human resources.* The Technological Feasibility Assessment and Inflationary Impact Statement on the cotton dust proposal estimated that OSHA's regulation would effect a reduction in employment in the cotton industry of 1,018, 9,902, and 30,089 for the exposure levels of 0.5, 0.2, and 0.1 mg/m³, respectively. These figures represent a range of percentage reductions throughout the industry from 0.1 to 4.3 percent. At the same time, in some areas increases in manpower requirements would occur of 859, 3,257, and 4,628 for the exposure levels of 0.5, 0.2, and 0.1 mg/m³. These additional manpower requirements are expected to be easily satisfied by internal or regional labor, with the exception of certain highly skilled personnel, such as industrial nurses and hygienists. (76)

In general, the additional manpower resources that will be needed by the various cotton industries represent a negligible portion of total employment levels. This is not true for the cotton ginning industry, however, where a manpower increase of 47 percent is predicted. The seasonal nature of the industry should alleviate the problem somewhat and local labor supplies should be sufficient for the remaining industries.

Workers required for operation and maintenance of control equipment and personnel. Other personnel can be trained to sample with the vertical elutriator. The relatively small amount of physician time required for training personnel and for medical counselling can normally be acquired from physicians practicing in the vicinity.

Based on the assumption that every plant would require at least one nurse to administer the questionnaire and conduct the pulmonary function test, it was estimated that over 1000 nurses would be needed. Assuming half-time hires, this would amount to about 500 full-time equivalents. Also, an additional 30 industrial hygienists will be required. The shortage of hygienists in 1973 was estimated at 5000; the number being trained is increasing each year. While it will be difficult to fill these specialized manpower requirements, the number required by the cotton industry is only a small percentage of the demand nationwide, thus the impact of OSHA's regulation on this labor market will not be significant.

5. *Energy use impact.* The Technological Feasibility Assessment and Inflationary Impact Statement evaluated the increases in energy consumption that would be necessitated by implementation of the proposed standard 200 ug/m³ as well as for two alternative permissible exposure limits, 500 ug/m³ and 100 ug/m³.

In the yarn industry, the additional energy requirements and energy costs are significant for all three exposure limits. An additional 4.9 16.0 and 34.7 trillion BTU's per year (855×10^3, 2819.0×10^3 and 6107×10^3 barrels of oil equivalent) will be required to meet the 500, 200 and 100 ug/m³ limits, respectively, in the SIC codes examined. These additional energy requirements will cost 21, 68 and 147 million dollars annually at the 1975 electricity price, and the additional BTU requirements represent an increase of 3.5, 11.6 and 25.1 percent over the current energy consumption by the six SIC sectors examined. With respect to the total U.S. energy requirements, however, these amounts are insignificant.

The additional energy requirements are significant for the ginning, weaving, and waste processing industries at the proposed 200 ug/m³ exposure limit as well as at the alternative 100 ug/m³ limit. They are occasionally significant for the 500 ug/m³ limit also. For the individual industries, the proposed standard (200 ug/m³ will require a 74.7 percent increase (680,400 barrels of oil equivalent) in energy requirements for the ginning sector and over 21 percent (3,513,200 barrels of oil equivalent) for the cotton weaving sector.

The 100 ug/m³ limit would require an 87.1 percent increase (793,600 barrels of oil equivalent) in energy consumption (above 1972 energy consumption levels) in the ginning industry, a 60.1 percent increase (9,977,400 barrels of oil equivalent) in the cotton weaving industry, and a 35.9 percent increase (99,400 barrels of oil equivalent) in SIC Code 2293 (Padding and Upholstery Fillings). Percent increases for SIC Codes 2294 and 2515 were 16.9 (36,800 barrels of oil equivalent) and 15.9 (77,500 barrels of oil equivalent). The total dollar cost of the additional energy requirements of the 100 ug/m³ exposure limit for ginning, weaving, cotton waste processing, and mattresses and bedsprings is almost $284 million at 1975 energy prices; the cost is almost $120 million for the proposed standard's exposure limit. These energy and energy cost requirements are insignificant with respect to total U.S. requirements, however.

6. *Economic impact.* The following summary of economic impacts is taken from the study of the Technological Feasibility and Inflationary Impact Statement of the proposed cotton dust standard prepared for OSHA by Research Triangle Institute.

The total additional capital requirements in the yarn industry were estimated to be $984.4 million. The sectors of ginning, weaving, cotton waste and linters consumers will experience additional capital requirements totalling $1,687.2 million.

The total annualized costs for the yarn industry will be $241.6 million, and $90.4, $343.5, and $12.8 million for ginning, weaving, and waste consumers, respectively.

The average price increases per dollar of sales in yarn industry, to maintain pre-standard rates of return on investment, rage from 0.22 cent to 6.25 cents. In the yarn spinning and weaving industries price increases range from 0.01 cent to 0.17 cent.

The general inflationary impacts in the ginning, weaving, and waste consumer industries altogether are estimated to increase the Consumer Price Index (CPI) by 0.37 percent. The inflationary impacts in the yarn industry will increase the CPI by 0.143 percent.

Cotton yarn consumption is estimated to decrease by 58.3 million pounds, and the total contraction of raw cotton consumption resulting from compliance in ginning, spinning, and yarn processing will be 113 million pounds.

The impact of the proposed standard on the weaving sector will be quite severe, and it is doubtful whether those firms could compliance costs internally, if at all.

The costs of control for the cottonseed oil industry are so small as to have a negligible impact on the variables analyzed.

B. IMPACTS OF ALTERNATIVE SOLUTIONS

Section IV of this document outlines the alternatives considered by OSHA in the area of controlling employee exposure to cotton dust. As with most occupational health sandards, alternatives usually fall into two main categories: alternatives concerned with the substances to be regulated, and alternatives concerned with the level to which the chosen substance will be regulated. Earlier sections of this preamble have outlined the difficulties associated with the determination of the substance or substances contained in cotton dust which cause byssinosis. The preamble also discusses the alternative ways in which cotton dust exposure could be measured (vertical elutriated, respirable fraction, total dust, etc.)

Regardless of the alternative chosen the impacts of an OSHA regulation for cotton dust can be summarized as follows: the more cotton dust emitted from the workplace into the air or into water systems, the greater the potential for adverse impacts on air and/or water quality. Depending upon the levels of cotton dust present in the ambient air and water of communities surrounding cotton-processing industries, however, better control of cotton dust exposures in the workplace may have the potential for benefitting the general human environment of nearby areas as a result of limiting fugitive emissions and controlling point source emissions. In any event, controlling employee exposure to a level lower than that required under the current standard (29 CFR 1910.1000) should not necessarily produce a significantly adverse effect on the external environment.

The key factor is the method chosen by the employer for the purpose of compliance with the required exposure level. If control of employee exposure were achieved by methods which collect the exhausted dusts, logically, air quality in the neighborhoods surrounding cotton-processing plants may be improved. Similarly, the method of dust collection and disposal could impact water quality and solid waste categories.

Presently, OSHA has no data which quantify these potential impacts. Submissions of this type of data into the record of this proceeding are encouraged.

Alternatives for process control of the health hazards associated with cotton dust exposure, i.e., controls which do not concern varying permissible exposure limits, were also considered. For example, the washing of raw cotton has been shown to reduce or eliminate its potential for causing byssinosis. Literature sources have also revealed beneficial effects from washing, steaming, claving and use of better grades of cotton in textile mills. However, washing cotton was reported to change the characteristics sufficiently to interfere with processing it into yarn and autoclaving presents practical application problems. Steaming, however, has been tested in actual plant operations. The results of this study revealed that steaming improved the decrement in forced expiratory volume, especially in dusty operations such as opening, picking, blending and carding, but less in spinning and twisting. An approximately 30 percent reduction in total and elutriated dust levels was also achieved, yet no significant reductions in the symptoms of byssinosis were observed. Recommendations of the study still supported dust control as the primary means to prevent byssinosis. However, it did conclude that steaming could be used as an adjunct method where these measures are not effective, or as an interim measure where suitable dust control is not practical or feasible at the present time.(*28*) Merchant, et al., also observed an improvement in change in FEV, but at the same time they noted a post-preparation increase in dust levels, due possibly to adherence by the dust to cotton fibers because of the steaming. (*110*)

Among long-term solutions currently being researched are: cotton varieties which shed their bracts prior to maturation and harvest, dwarf determinant cotton with increased fruiting potential relative to the production of vegetative parts, raw chemicals that will more efficiently defoliate cotton and thereby reduce the trash content of harvested seedcotton, field extraction of trash, which could reduce gin emissions up to 35 percent,(*82*) improved ginning methods that will allow more efficient trash separation, and substitution by synthetic fibers.(*76*) Evaluation of the environmental impact for each of these research aims is actually beyond the scope of this statement. However, it should be cautioned that prior to introducing new chemicals or plant species into the environment, a thorough evaluation should be undertaken to determine if any adverse effects on man or his environment can be identified. As to alternatives to the other provisions of the regulation, (monitoring and surveillance, for example) it is considered that none of the alternatives would have any significant impact on the external environment.

C. RELATIONSHIP WITH OTHER FEDERAL ACTIONS

There are potentially two areas where the proposed reduction in cotton dust may overlap other Federal actions concerned with the discharge of pollutants into the environment. First, the release of air pollutant emissions into the atmosphere from cotton ginning operations, which was treated in some detail in a previous section. Under the authority of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Environmental Protection Agency (EPA) is responsible for safeguarding air quality. To these ends they have promulgated Federal ambient air quality standards. Even though cotton dust, per se, is not specifically regulated by EPA, emissions from gin processing and incineration of cotton gin trash are composed of suspended particulate matter for which both primary and secondary ambient air quality standards have been issued. The primary standards for particulates is 75 ug/m³ annual geometric mean; the secondary standard is 60 ug/m³. (40 CFR 50.6). In order to achieve compliance with these standards, individual states have instituted allowable emission standards for various industrial processes. For cotton gins, allowable emissions based on process weight have been promulgated by the following states: Arizona, Louisiana, Missouri, North Carolina, Oklahoma, Mississippi, Alabama, Tennessee, Texas, Arkansas and California.(*101*) Additionally, all cotton ginning states have instituted air pollution regulations to control smoke emissions from incineration of gin trash. EPA is in the process of preparing a source assessment document for cotton gins which does evaluate the air pollution potential of these operations. It is not known at this time whether emission guideline will be issued by EPA with respect to gin emissions. Nevertheless, as stated previously, there appears to be a close relationship between control of cotton dust and lint control in the ginning process and the effect on ambient air quality. Therefore, both control of workplace exposures to cotton dust and the controls on gin emission as required by clean air regulations would appear to be mutually beneficial.

The second potential overlap with other Federal actions could occur in the cotton textile mills with regard to the effluent limitation guidelines promulgated by the Environmental Protection Agency for these mills.

The Environmental Protection Agency (EPA), the National Commission on Water Quality (NCWQ) and the American Textile Manufacturers Institutes (ATMI) have categorized the wastewater effluent from cotton mills involved in yarn manufacturing and making unfinished fabrics. For comparison these subcategories are listed as follows:

EPA, Subcategory 3—Dry Processing
NCWQ, Subcategory 4—Woven Dry Processing Mill
ATMI, Subcategory 6, 3—Greige Mills plus Woven Fabric Finishing

These common subcategories cover most greige mill operations which are relatively dry in comparison to a true wet operation (i.e. fabric finishing). Generally, the only wet operation is in the slashing of warp yarn. Slashing is the application of lubricants and sizing (starch, PVA, CMC) where the only waste generated is in the occasional dumping of starch batches and wash down of the size mixing and slasher area. (111) This waste can contain appreciable amounts of Biological Oxygen Demand (BOD), Chemical Oxygen

Demand (COD) and Total Suspended Particulates (TSS). The total waste stream of these mills is over 90 percent sanitary. The combined waste stream will generally contain 80–465 mg/1 BOD, 50 to 360 mg/1 TSS, 320 to 2000 mg/1 COD and a range of pH from 6–11. The following sets of effluent limitations guidelines have been promulgated by EPA and are applicable to dry-processing cotton mill. The 1977 guidelines require the use of Best Practical Technology (BPT), while the 1983 limitations call for Best Available Technology (BAT): *(112)*

	1977 (BPT)	(1983 (BAT)
BOD	[1]0.7	0.2
TSS	.7	.2
COD	1.4	.4

[1] Units expressed in pounds pollutant/1,000 lb. product.

Since wet control methods do not appear to be the most probable method of compliance with the new permissible exposure limits to cotton dust, there will be no significant impact on water quality. Therefore, compliance with the 1977 and 1983 effluent limitations required by EPA will not be adversely affected by OSHA's proposed cotton dust standard.

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VIII. Public Participation

Interested persons are invited to submit written data, views and arguments on the proposed standard and on all issues raised or involved herein. Written data, views, and arguments concerning the proposal must be submitted in quadruplicate to the Docket Officer, Docket No. H–052, Room N–3620, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, on or before March 4, 1977. Written submissions must clearly identify the provisions of the proposal addressed and the position taken with respect to each such provision. The data, views, and arguments will be available for public inspection and copying at the above address. All written submissions received will be made a part of the record of this proceeding.

In order to expedite this rulemaking proceeding and in anticipation of requests for a hearing, we are scheduling an informal public hearing, pursuant to section 6(b)(3) of the Act and 29 CFR Part 1911, to begin on April 5, 1977, in the Departmental Auditorium, 14th and Constitution Avenues, N.W., Washington, D.C.

All issues raised in this notice and all aspects of the proposed standard, including its economic, inflationary and environmental impacts, will be at issue in the hearing.

Persons desiring to appear at the hearing must file a notice of intention to appear, on or before March 4, 1977, with OSHA Committee Mangement Office, Docket No. H–052, Room N3633, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (Telephone: 202–523–8023). The notices of intention to appear, which will be available for inspection and copying at the above address, must contain the following information:

(1) The name and address of the person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time required for the presentation;

(4) The specific provisions of the proposal that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each provision addressed; and

(6) A detailed statement of the evidence with respect to each such provision proposed to be presented at the hearing.

OSHA has determined that strict enforcement of its procedural rules contained in 29 CFR 1911.11 is necessary for an expeditious and orderly proceeding. Therefore, the notices of intent to appear will be scrutinized closely for sufficiently detailed information concerning the position to be taken with regard to the issues specified and the evidence to be presented in support of the position. Persons filing notices of intent to appear which are not sufficiently detailed will be so informed and given seven (7) days from the date they are so informed to file a a proper notice of intent to appear. Further, the amount of time requested for each presentation will be reviewed in light of the contents of the notice of intention to appear. In those cases where the information contained in the notice of intention to appear does not seem to warrant the amount of time requested, the participant will be allocated a more appropriate amount of time and notified of this fact. The participant will have seven (7) days from the date on which he is so informed to demonstrate why the allocated time is inappropriate. In addition, all prepared statements and documents that are intended to be submitted for the record during the course of the hearing must be submitted in quadruplicate and received no later than April 1, 1977.

The hearing will commence at 9:30 a.m. on Tuesday April 5, 1977 and will be conducted in accordance with 29 CFR Part 1911. The oral proceedings will be reported verbatim and a transcript will be made available for inspection and copying to interested persons.

The Administrative Law Judge who will be designated to preside at the hearing shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

(1) To regulate the course of the proceedings;

(2) To dispose of procedural requests, objections, and comparable matters;

(3) To confine the presentations to matters pertinent to the proposed standard;

(4) To regulate the conduct of those present at the hearing by appropriate means;

(5) In his discretion, to question and permit questioning of any witness; and

(6) In his direction, to keep the record open for a reasonable, stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge shall certify the record thereof to the Assistant Secretary. The proposal will be reviewed in light of all the oral and written submissions received as part of the record in this proceeding and appropriate action will be taken.

Accordingly, pursuant to sections 4(b), 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653, 655, 657), Secretary of Labor's Order 8–76 (41 FR 25059), and 29 CFR Part 1911, it is hereby proposed to amend Parts 1910 and 1928 of Title 29, Code of Federal Regulations, by adding a new § 1910.1043 regulating exposure to cotton dust, by deleting the current standard for cotton dust (raw) contained in Table Z–1 of § 1910.1000, and by making conforming amendments in § 1910.19 and § 1928.21 as set forth below.

(It is hereby certified that the economic and inflationary impact of this proposed regulation has been carefully evaluated in accordance with Executive Order 11821 and OMB Circular A–107.)

Signed at Washington, D.C. this 21st day of December 1976.

MORTON CORN,
Assistant Secretary of Labor.

1. In § 1910.19, paragraph (c) is proposed to be added to read as follows:

§ 1910.19 Asbestos dust.

* * * * *

(c) Section 1910.1043 shall apply to the exposure of every employee to cotton dust in every employment covered by § 1910.12, § 1910.13, § 1910.14, § 1910.15, or § 1910.16, in lieu of any different standard on exposure to cotton dust which would otherwise be applicable by virtue of any of those sections. (Secs. 4, 6, 8, 84 Stat. 1592, 1593, 1599 (29 U.S.C. 653, 655, 657) and 29 CFR Part 1911)

§ 1910.1000 [Amended]

2. Table Z–1 in § 1910.1000 is proposed to be amended by deleting the following:

Cotton dust (raw) Mg/m³	1

3. A new § 1910.1043 is proposed to be added to Part 1910, to read as follows:

§ 1910.1043 Cotton dust.

(a) *Scope and application.* This section applies to the control of employee exposure to cotton dust in all workplaces and all industries, including ginning, warehousing and compressing of cotton lint, classing and marketing of cotton lint, yarn manufacturing using cotton lint, fabric manufacturing using cotton yarn, reclaiming and marketing of textile manufacturing waste, delinting of cottonseed, marketing and converting of linters, reclaiming gin motes and batting yarn, felt manufacturing using waste cotton fibers and by-products, and other processes where cotton dust is present in the atmosphere. This section applies to operations in all industries, including "general industry", construction, maritime and agriculture, except harvesting. The section does not apply to the handling or processing of woven or knitted materials nor does this section apply to working conditions with respect to which other Federal agencies have exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(b) *Definitions.* For the purpose of this section:

"Blow down" means the cleaning of equipment and surfaces with compressed air;

"Cotton dust" means dust present in the atmosphere during the handling or processing of cotton which may contain a mixture of many substances including ground-up plant matter, fiber, bacteria, fungi, soil, pesticides, non-cotton plant

matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods. Any dust present during the handling and processing of cotton through the weaving or knitting of fabric, and dust generated in other operations or manufacturing processes using new or waste cotton fibers or cotton fiber by-products from textile mills are considered cotton dust;

"Director" means the Director of the National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education, and Welfare, or his designee;

"Secretary" means the Secretary of Labor, U.S. Department of Labor or his designee;

"Vertical elutriated cotton dust" means that fraction of cotton dust collected by a vertical elutriator according to the specifications given in Appendix A.

(c) *Permissible exposure limit.* The employer shall assure that no employee is exposed to airborne concentrations of vertical elutriated cotton dust greater than 200 $\mu g/m^3$, averaged over any eight-hour period.

(d) *Exposure monitoring and measurement.*—(1) *Monitoring program.* (i) For the purposes of this paragraph (d), employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) Within 90 days from the effective date of this section, each employer who has a place of employment in which cotton dust is present as specified in paragraph (a) of this section shall conduct monitoring, by obtaining measurements which are representative of the exposures of all the employees to airborne cotton dust over an 8-hour period. The sampling program shall include at least one determination during each shift for each job classification. The procedures for collection and analysis of environmental samples provided in Appendix A shall be followed.

(2) *Frequency of monitoring.* (i) The employer shall repeat the measurements required by paragraph (d)(1) of this section at least every six months.

(ii) Whenever there has been a production, process, or control change which may result in new or additional exposure to cotton dust, or whenever the employer has any other reason to suspect an increase in employee exposure, the employer shall repeat the monitoring and measurements required by paragraph (d)(1) of this section for those employees affected by such change or increase.

(3) *Employee notification.* (i) The employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure within five working days after the receipt of the results of measurements required by paragraphs (d)(1) and (d)(2) of this section.

(ii) Whenever such results indicate that the representative employee exposure exceeds the permissible exposure limit, the employer shall, in such notification, inform each employee of the corrective action being taken to reduce exposure to or below the permissible exposure limit.

(e) *Methods of compliance.* The employer shall control employee exposure to cotton dust by the use of engineering controls, work practice controls, and respirators as follows:

(1) *Engineering controls.* (i) The employer shall institute immediately engineering.
controls to reduce exposures to cotton dust to 500 $\mu g/m^3$, except to the extent that the employer can establish that such controls are not feasible. In determining whether the institution of engineering controls is feasible, the requirement, effective August 27, 1971, to implement feasible administrative or engineering controls to reduce exposures to cotton dust shall be considered.

(ii) The employer shall institute engineering controls necessary to reduce exposures to cotton dust to 350 $\mu g/m^3$ within 4 years from the effective date of this section, except to the extent that the employer can establish that such controls are not feasible.

(iii) The employer shall institute engineering controls necessary to reduce exposures to cotton dust to 200 $\mu g/m^3$ within 7 years from the effective date of this section, except to the extent that the employer can establish that such controls are not feasible.

(iv) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposure to the levels specified to be achieved solely by these means in paragraph (e)(1)(i)(e)(1)(iii) of this section, the employer shall nonetheless institute these controls to reduce exposures to the lowest feasible level.

(2) *Work practice controls.* The employer shall implement the work practice controls listed in paragraph (g) of this section regardless of the level of exposure.

(3) *Respirators.* Whenever the engineering and work practice controls which are instituted are not sufficient to reduce employee exposure to the permissible exposure limit (200 $\mu g/m^3$ vertical elutriated cotton dust), the employer shall supplement such controls with the use of respirators which shall comply with provisions of paragraph (f) of this section.

(4) *Compliance program.* (i) Each employer shall establish and implement a written program to reduce exposures solely by means of engineering controls, as specified in paragraph (e)(1) of this section.

(ii) The written program shall include at least the following:

(*a*) A description of each operation or process resulting in employee exposure to cotton dust;

(*b*) Engineering plans and other studies used to determine the controls for each process;

(*c*) A report of the technology considered in meeting the permissible exposure limit;

(*d*) Monitoring data obtained in accordance with paragraph (d) of this section;

(*e*) A detailed schedule for the implementation of engineering controls;

(*f*) Other relevant information.

(iii) Written plans for such program shall be submitted, upon request, to the Secretary and the Director, and shall be available at the worksite for examination and copying by the Secretary, the Director, any affected employee or their representative. The plans required under paragraph (e)(4) of this section shall be revised and updated at least every six months to reflect the current status of the program.

(5) *Mechanical ventilation.* When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control the exposure, such as capture velocity, duct velocity, or static pressure shall be made at least every six months. Measurements of the system's effectiveness to control exposures shall also be made within five days of any change in production, process or control which might result in any change in airborne concentrations of cotton dust.

(f) *Use of Respirators.*—(1) *General.* Where the use of respirators is required under this section, the employer shall provide and assure the use of respirators which comply with the requirements of this paragraph (f). Compliance with the permissible exposure limit may not be achieved by the use of respirators except:

(i) During the time periods allowed to install engineering controls; or

(ii) In work operations such as maintenance and repair activity, in which engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; or

(iv) In operations specified under paragraph (g)(2)(i) of this section.

(2) *Respirator selection.* (i) Where respirators are required under this section, the employer shall select and provide and assure the use of the appropriate respirator from Table 1 below.

TABLE I.—RESPIRATORS FOR COTTON DUST

Cotton dust concentration	*Required respirator*
(*a*) Not greater than 2000 ug/m³	(*1*) Any dust respirator, except single use; or (*2*) Any supplied air respirator; or (*3*) Any self-contained breathing apparatus.

(b) Not greater than 10,000 ug/m³ ------	(1) Any dust respirator with full-facepiece and high efficiency filter; or (2) Any supplied air respirator with full-facepiece; or (3) Any self-contained breathing apparatus with full-facepiece.
(c) Greater than 10,000 ug/m³ ----------	(1) Any powered air-purifying respirator with high efficiency filter; or (2) Any self-contained breathing apparatus operated in pressure demand or other positive pressure mode; or (3) Any type "C" supplied air respirator operated in pressure demand or continuous flow mode.

(ii) Respirators shall be selected from those tested and approved for protection against dust by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(iii) Whenever respirators are required by this section for concentrations not greater than 10,000 ug/m³, the employer shall provide, either a respirator as provided in paragraph (f) (2) (i) (*a*) and (*b*) of this section or, at the option of each affected employee, a powered air purifying respirator as provided in paragraph (f) (2) (i) (*c*) (*1*) of this section.

(3) *Respirator program.* The employer shall institute a respirator program in accordance with § 1910.134 of this part.

(4) *Respirator usage.* (i) The employer shall assure that respirators used by employees exhibit minimum facepiece leakage and that the respirators are fitted properly. The employer shall perform semi-quantitative fit tests annually for each employee who uses a nonpowered, particulate filter respirator.

(ii) The employer shall allow each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(iii) The employer shall allow employees who wear respirators to wash their face and respirator facepiece to prevent skin irritation associated with respirator use.

(g) *Work practices.* (1) The employer shall inspect, clean, maintain and repair, all engineering control equipment and ventilation systems including power sources, ducts and filtration units of the equipment pursuant to a detailed written program established and implemented for effective control of cotton dust exposure.

(2) The employer shall establish and implement a written program of work practices, to include procedures which shall minimize cotton dust exposure for each specific job. The procedures shall include the following, where applicable:

(i) The employer shall prohibit compressed air "blow down" cleaning, except where alternative means are not available, in which case respirators shall be worn by the employees present. Employees in the area whose presence is not required to perform the "blow down" shall be required to leave the area during this cleaning operation. Cleaning of clothing with compressed air is prohibited.

(ii) Floor sweeping shall be performed with a vacuum or with methods designed to minimize dispersal of dust.

(iii) Cotton and cotton waste shall be stacked, sorted, baled, dumped, removed or otherwise handled by mechanical means except where the employer can show that it is infeasible to do so. Where infeasible, the method developed and implemented by the employer shall be one which most effectively prevents the release of airborne cotton dust in excess of the permissible exposure limit.

(h) *Medical surveillance*—(1) *General.* (i) Each employer who has a place of employment in which cotton dust is present shall institute a program of medical surveillance for all employees.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and are provided without cost to the employee.

(iii) The employer shall inform any employee who refuses any required medical surveillance of the possible health consequencies of such refusal and shall obtain a signed statement from the employee indicating that the employee understands the risk involved in the refusal to be examined.

(2) *Initial examinations.* At the time of initial assignment or upon the institution of the medical surveillance program, the employer shall provide each employee with an opportunity for a physical examination that shall include:

(i) A medical history;

(ii) The standardized questionnaire (Appendix B);

(iii) A pulmonary function measurement, including a determination of forced vital capacity (FVC) and forced expiratory volume in 1 second (FEV_1).

(*a*) These determinations will be made for the new employee prior to placement.

(*b*) These determinations will be made for the current employee before he enters his workplace on the first day of the work week, following at least 35 hours after previous exposure to cotton dust. The test will be repeated during the shift, no sooner than 4 and no more than 10 hours after the beginning of said work shift; and, in any event, no more than one hour after cessation of exposure.

(iv) A determination shall be made of the amount of the FEV_1, the FVC and the percentage that the measured values of FEV, and FVC differ from the predicted values, using the standard tables as set forth in Appendix C.

(v) Based upon questionnaire results, each employee shall be graded according to Schilling's byssinosis classification system.

(3) *Periodic examinations.* (i) The employer shall provide each employee with an opportunity for medical surveillance as outlined in paragraph (h) (1) and (2) of this section repeated on an annual basis. (ii) Medical surveillance shall be provided every six months for employees placed in the following categories:

(*a*) An FEV_1 of greater than 80 percent of predicted but with an FEV_1 decrement of 5 percent or more on a first working day.

(*b*) An FEV_1 of less than 79 percent of the predicted value.

Updated questionnaires shall be required every six months for employees in this category, and a detailed pulmonary examination is required for employees whose FEV_1 is less than 60 percent of the predicated value.

(c) Where in the opinion of a physician, a significant change in questionnaire findings, pulmonary function results or other diagnostic tests has occurred.

(iii) A comparison shall be made between the current examination results and those of previous examinations and a determination made by the physician as to whether there has been a significant change.

(4) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its Appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's exposure level or anticipated exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(5) *Physician's written opinion.* (i) The employer shall obtain and furnish the employee with a copy of the written opinion from the examining physician containing the following:

(*a*) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to cotton dust;

(*b*) Any recommended limitations upon the employee's exposure to cotton dust or upon the use of equipment such as respirator; and

(*c*) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written

opinion specific findings or diagnoses unrelated to occupational exposure.

(i) *Employee education and training.* (1) Each employer who has a workplace where airborne cotton dust is present as described in paragraph (a) of this section shall:

(i) Keep a copy of this regulation with its appendices at the workplace and make such material readily available to employees.

(ii) Inform employees who work or will be assigned work in the presence of cotton dust of the specific nature of the operations which could result in exposure at or above the permissible exposure limit.

(2) Each employer who has a workplace where airborne cotton dust is present shall provide, prior to initial placement of new employees and at least annually for all employees, a training program which shall inform each employee of:

(i) The measures, including work practices, required by paragraph (g) of this section, necessary to protect them from exposures in excess of the permissible exposure limit;

(ii) The purpose, proper use and limitations of respirators as required by paragraph (f) of this section;

(iii) The purpose for and a description of the medical surveillance program required by paragraph (n) of this section, including information on the signs and symptoms of byssinosis and other respiratory diseases related to exposure to cotton dust;

(iv) A review of this standard.

(3) The employer shall provide all materials relating to the employee training and information program to the Secretary and the Director upon request.

(j) *Signs.* The employer shall be required to post signs wherever respirators are required to be used by this section, which state:

RESPIRATORS REQUIRED IN THIS AREA

(k) *Recordkeeping*—(1) *Measurements.* The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to airborne concentrations of cotton dust required in paragraph (d) of this section.

(i) This record shall include the log as required by paragraph IV(a) of Appendix A, and:

(*a*) The type of protective devices worn, if any and length of time worn; and

(*b*) The name, social security numbers, job classification, and exposure levels of employees in the involved workplace.

ii) This record shall be maintained for at least 20 years.

(2) *Medical surveillance.* The employer shall establish and maintain an accurate medical record for each employee subject to medical surveillance as required by paragraph (h) of this section.

(i) The record shall include:

(*a*) The name and social security number and description of duties of the employee;

(*b*) A copy of the medical examination results;

(*c*) A copy of the physician's written opinion;

(*d*) Any employees medical complaints related to exposure to cotton dust; and

(*e*) The signed statement of any refusal to have medical surveillance under paragraph (h) of this section,

(ii) This record shall be maintained for at least 20 years.

(3) *Availability.* (i) The employer shall make available upon request all records required to be maintained by paragraph (k) of this section to the Secretary and the Director for examination and copying.

(ii) The employer shall make available upon request records of employee exposure measurements required by paragraph (k) (1) of this section for inspection and copying to affected employees, former employees, and their designated representatives.

(iii) The employer shall make available upon request employee medical records required to be maintained in paragraph (k) of this section to a physician designated by the affected employee or former employee.

(4) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by paragraph (k) of this section.

(ii) Whenever the employer ceases to do business, and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted by registered mail to the Director.

(iii) At the expiration of the retention period for the records required to be maintained under paragraph (k) of this section, the employer shall transmit these records by registered mail to the Director or shall continue to retain these records.

(l) *Observation of Monitoring.* (1) The employer shall provide affected employees or their representatives an opportunity to observe any measuring of employee exposure to cotton dust conducted pursuant to paragraph (d) of this section.

(2) Whenever observation of the measuring or monitoring of employee exposure to cotton dust requires entry into an area where the use of personal protective equipment is required, the employer shall provide the observer with and assure the use of such equipment and shall require the observer to comply with all other applicable safety and health procedures.

(3) Without interfering with the measurement, observers shall be entitled to:

(i) An explanation of the measurement procedures;

(ii) Observe all steps related to the measurement of airborne cotton dust performed at the place of exposure; and

(iii) A record of the results obtained.

(m) *Effective date.* This standard shall become effective 90 days after publication of the final standard in the FEDERAL REGISTER.

(n) *Appendices.* The information contained in the appendices of this section are part of this section.

APPENDIX A

AIR SAMPLING AND ANALYTICAL PROCEDURES FOR DETERMINING CONCENTRATIONS OF COTTON DUST

I. SAMPLING LOCATIONS

The sampling procedure must be designed so that samples of the actual dust concentrations are collected accurately and consistently and reflect the concentrations of dust at the place and time of sampling. At least five 6-hour area samples in each distinct operational area of the plant shall be collected at locations which provide representative samples of air to which the worker is exposed. Samples in each operating area shall be gathered simultaneously during a normal operating period. The daily time-weighted average (TWA) exposure of each worker can then be determined by using the following formula:

$$TWA = \frac{\text{summation of hours spent in each location} \times \text{the dust concentration in that location}}{\text{Total hours exposed}}$$

A time-weighted average concentration shall be computed for each worker and properly logged and maintained on file for review.

II. SAMPLING EQUIPMENT

(a) Sampler. The instrument selected for monitoring is the vertical elutriator. It shall operate at a flow rate of 7.4 ± 0.2 liters/minute.

The samplers shall be cleaned prior to sampling. The pumps shall be monitored and vacuums checked during sampling.

(b) Filter holder. A three-piece cassette constructed of polystyrene designed to hold a 37-mm diameter filter shall be used. To insure that an adequate seal exists between elements of the cassette, an opaque cellulose shrink band shall be placed over the joint between the center and bottom parts of the cassette.

(c) Filters and support pads. The membrane filters used shall be polyvinyl chloride with a 5-um pore size and 37-mm diameter. A support pad, commonly called a backup pad, shall be used under the filter membrane in the field monitor cassette.

(d) Balance. A balance sensitive to 10 micrograms shall be used.

III. INSTRUMENT CALIBRATION PROCEDURE

Samplers shall be calibrated when first received from the factory, after repair, and after receiving any abuse. The samplers shall be calibrated in the laboratory both before they are used in the field and after they have been used to collect a large number of field samples. The primary standards, such as a spirometer or a wet test meter or other standard calibrating instruments such as a large bubble meter or dry gas meter, shall be used. Instructions for calibration with the wet test meter follow. If another calibration device is selected, equivalent procedures shall be used:

(a) Level wet test meter. Check the water level which should just touch the calibration point at the left side of the meter. If water level is low, add water 1–2 F° warmer than room temperature to fill point. Run the meter for 30 minutes before calibration;

(b) Place the polyvinyl chloride membrane filter in the filter cassette;

(c) Assemble the calibration sampling train;

(d) Connect the wet test meter to the train. The pointer on the meter should run clockwise and a pressure drop of not more

than 1.0 inch of water indicated. If the pressure drop is greater than 1.0 disconnect and check the system;

(e) Operate the system for ten minutes before starting the calibration;

(f) Check the vacuum gauge on the pump to insure that the pressure drop across the orifice exceeds 14 inches of mercury;

(g) Record the following on calibration data sheets:

(1) Wet test meter reading, start and finish;

(2) Elapsed time, start and finish (at least two minutes);

(3) Pressure drop at manometer;

(4) Air temperature;

(5) Barometric pressure; and

(6) Limiting orifice number;

(h) Calculate the flow rate and compare against the flow of 7.4 ± 0.2 liters/minute. If flow is between these limits, perform calibration again, average results, and record orifice number and flow rate. If flow is not within these limits, discard or modify orifice and repeat procedure;

(i) Record the name of the person performing the calibration, the date, serial number of the wet test meter, and the number of the critical orifices being calibrated.

IV. SAMPLING PROCEDURE

(a) Sampling data sheets shall include a log of:

(1) The date of the sample collection;

(2) The time of sampling;

(3) The location of the sampler;

(4) The sampler serial number;

(5) The cassette number;

(6) The time of starting and stopping the sampling and the duration of sampling;

(7) The weight of the filter before and after sampling;

(8) The weight of dust collected (corrected for controls);

(9) The dust concentration measured;

(10) Other pertinent information; and

(11) Name of person taking sample.

(b) Assembly of filter cassette shall be as follows:

(1) Loosely assemble 3-piece cassette;

(2) Number cassette, top and bottom;

(3) Place absorbant pad in cassette;

(4) Weigh filter to an accuracy of 10 ug;

(5) Place filter in cassette;

(6) Record weight of filter in log, using cassette number for identification;

(7) Fully assemble cassette, using pressure to force parts tightly together;

(8) Install plugs top and bottom;

(9) Put shrink band on cassette, covering joint between center and bottom parts of cassette; and

(10) Set cassette aside until shrink band dries thoroughly.

(c) Sampling collection shall be performed as follows:

(1) Clean lint out of the motor and elutriator and clean the relief valve screen;

(2) Install vertical elutriator in sampling locations specified above with inlet 4½ to 5½ feet from floor (breathing zone height);

(3) Remove top section of cassette;

(4) Install cassette in ferrule of elutriator;

(5) Tape cassette to ferrule with 1 in. wide masking tape or similar material for airtight seal;

(6) Remove bottom plug of cassette and attach hose containing critical orifice;

(7) Start elutriator pump and check to see if gauge reads above 14 in. of Hg vacuum;

(8) Record starting time, cassette number, and sampler number;

(9) At end of sampling period stop pump and record time; and

(10) Controls: With each batch of samples collected, two additional filter cassettes shall be subjected to exactly the same handling as the samples, except that they are not opened. These control filters shall be weighed in the same manner as the sample filters. Any difference in weight in the control filters would indicate that the procedure for handling sample filters may not be adequate and shall be evaluated to ascertain the cause of the difference, whether and what necessary corrections must be made, and whether additional must be collected.

(d) Shipping

The cassette with samples shall be collected, along with the appropriate number of blanks, and shipped to the analytical laboratory in a suitable container to prevent damage in transit.

(e) Weighing of the sample shall be achieved as follows:

(1) Remove shrink band;

(2) Remove top section of cassette and bottom plug;

(3) Remove filter from cassette and weigh to an accuracy of 10 ug; and

(4) Record weight in log against original weight

(f) Calculation of volume of air sampled shall be determined as follows:

(1) From starting and stopping times of sampling period, determine length of time in minutes of sampling period; and

(2) Multiply sampling time in minutes by flow rate of critical orifice in liters per minute and divide by 1000 to find air quantity in cubic meters

(g) Calculation of Dust Concentrations shall be made as follows:

(1) Subtract weight of clean filter from dirty filter and apply control correction to find actual weight of sample. Record this weight (in ug) in log; and

(2) Divide mass of sample in ug by air volume in cubic meters to find dust concentration in ug/m. Record in Log.

APPENDIX B
RESPIRATORY QUESTIONNAIRE

A. IDENTIFICATION DATA

PLANT_____ SOCIAL SECURITY NO. _____
DAY MONTH YEAR
(figures) (last 2 digits)

NAME_____ DATE OF INTERVIEW_____
(Surname)

_____ DATE OF BIRTH_____
(First Names) M F

ADDRESS_____ AGE_____ (8,9) SEX_____ (10)

_____ RACE | W | N | IND. | OTHER | (11)

INTERVIEWER: 1 2 3 4 5 6 7 8 (12)

WORK SHIFT: 1st_____ 2nd_____ 3rd_____ (13) STANDING HEIGHT_____ (14,15)

PRESENT WORK AREA WEIGHT_____ (16,18)

If working in more than one specified work area, X area where most of the work shift is spent. If "other," but spending 25% of the work shift in one of the specified work areas, classify in that work area. If carding department employee, check area within that department where most of the work shift is spent (if in doubt, check "throughout"). For work areas such as spinning and weaving where many work rooms may be involved, be sure to check the specific work room to which employee is assigned — if he works in more than one work room within a department classify as 7 (all) for that department.

	Workroom Number	(19) Open	(20) Pick	Area	(21) Card #1	(22) #2	(23) Spin	(24) Wind	(25) Twist	(26) Spool	(27) Warp	(28) Slash	(29) Weave	(30) Other
AT RISK (cotton & cotton blend)	1			Cards										
	2			Draw										
	3			Comb										
	4			Rove										
	5			Thru Out										
	6													
	7 (all)													
Control (synthetic & wool)	8													
Ex-Worker (cotton)	9													

Use actual wording of each question. Put X in appropriate square after each question. When in doubt record 'No'. When no square, circle appropriate answer.

B. COUGH

Do you usually cough first thing in the morning? (on getting up)† ____ Yes ____ No ____ (31)
(Count a cough with first smoke or on "first going out of doors." Exclude clearing throat or a single cough.)

Do you usually cough during the day or at night? ____ Yes ____ No ____ (32)
(Ignore an occasional cough.)

If 'Yes' to either question (31-32):

Do you cough like this on most days for as much as three months a year? ____ Yes ____ No ____ (33)

Do you cough on any particular day of the week? Yes ____ No ____ (34)

(1) (2) (3) (4) (5) (6) (7)

If 'Yes': Which day? Mon. Tues. Wed. Thur. Fri. Sat Sun. (35)

C. PHLEGM or alternative word to suit local custom.

Do you usually bring up any phlegm from your chest first thing in the morning? (on getting up)† (Count phlegm with the first smoke or on "first going out of doors." Exclude phlegm from the nose. Count swallowed phlegm.) ____ Yes ____ No ____ (36)

Do you usually bring up any phlegm from your chest during the day or at night? (Accept twice or more.) ____ Yes ____ No ____ (37)

If 'Yes' to either question (36) or (37):

Do you bring up phlegm like this on most days for as much as three months each year? ____ Yes ____ No ____ (38)

If 'Yes' to question (33) or (38):

How long have you had this phlegm? (cough)
(Write in number of years

(1) ☐ 2 years or less
(2) ☐ More than 2 years-9 years
(3) ☐ 10-19 years
(4) ☐ 20+ years

†These words are for subjects who work at night

D. CHEST ILLNESSES

In the past three years, have you had a period of (increased) †cough and phlegm lasting for 3 weeks or more? ____ (1) ☐ No (2) ☐ Yes, only one period (3) ☐ Yes, two or more periods (40)

†For subjects who usually have phlegm

During the past 3 years have you had any chest illness which has kept you off work, indoors at home or in bed? (For as long as one week, flu?) Yes ____ No ____ (41)

If 'Yes' to (41): Did you bring up (more) phlegm than usual in any of these illnesses? Yes ____ No ____ (42)

If 'Yes' to (42): During the past three years have you had:
Only one such illness with increased phlegm? (1) ☐ (43)
More than one such illness: (2) ☐ (44)

Br. Grade ____

E. TIGHTNESS

Does your chest ever feel tight or your breathing become difficult?_____Yes_____ No_____(45)

Is your chest tight or your breathing difficult on any particular day of the week? (after a week or 10 days away from the mill)_____Yes_____No_____(46)

If 'Yes': Which day? Mon. (3) Tues. (4) Wed. (5) Thur. (6) Fri. (7) Sat. (8) Sun. (47)

(1) Sometimes (2) Always

If 'Yes' Monday: At what time on Monday does your chest feel tight or your breathing difficult? 1 ☐ Before entering the mill 2 ☐ After entering the mill (48)

(Ask only if NO to Question (45).

In the past, has your chest ever been tight or your breathing difficult on any particular day of the week?_____Yes_____No_____(49)

If 'Yes': Which day? Mon. (3) Tues. (4) Wed. (5) Thur. (6) Fri. (7) Sat. (8) Sun. (50)

(1) Sometimes (2) Always

F. BREATHLESSNESS

If disabled from walking by any condition other than heart or lung disease put "X" here and leave questions (52-60) unasked. ☐ (51)

Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill?_____Yes_____No_____(52)

If 'No', grade is 1. If 'Yes', proceed to next question

Do you get short of breath walking with other people at an ordinary pace on the level?_____Yes_____No_____(53)

If 'No', grade is 2. If 'Yes', proceed to next question

Do you have to stop for breath when walking at your own pace on the level?_____Yes_____No_____(54)

If 'No', grade is 3. If 'Yes', proceed to next question

Are you short of breath on washing or dressing?_____Yes_____No_____(55)

If 'No', grade is 4. If 'Yes', grade is 5.

Dyspnea Grd._____(56)

ON MONDAYS:

Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill?_____Yes_____No_____(57)

If 'No', grade is 1. If 'Yes', proceed to next question

Do you get short of breath walking with other people at an ordinary pace on the level?_____Yes_____No_____(58)

If 'No', grade is 2. If 'Yes', proceed to next question

Do you have to stop for breath when walking at your own pace on the level?_____Yes_____No_____(59)

If 'No', grade is 3. If 'Yes', proceed to next question

Are you short of breath on washing or dressing?_____Yes_____No_____(60)

If 'No', grade is 4. If 'Yes', grade is 5

B. Grd._____(61)

G. OTHER ILLNESSES AND ALLERGY HISTORY

Do you have a heart condition for which you are under a doctor's care? ____Yes____No____(62)

Have you ever had asthma? Yes No (63)

If 'Yes', did it begin: (1) ☐ Before age 30
(2) ☐ After age 30

If 'Yes' before 30: did you have asthma before ever going to work in a textile mill? ____Yes____No____(64)

Have you ever had hay fever or other allergies (other than above)? ____Yes____No____(65)

H. TOBACCO SMOKING*

Do you smoke?

Record 'Yes' if regular smoker up to one month ago. (Cigarettes, cigar or pipe) ____Yes____No____(66)

If 'No' to (63).

Have you ever smoked? (Cigarettes, cigars, pipe. Record 'No' if subject has never smoked as much as one cigarette a day, or 1 oz. of tobacco a month, for as long as one year.) ____Yes____No____(67)

If 'Yes' to (63) or (64); what have you smoked and for how many years? (Write in specific number of years in the appropriate square)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	
Years	(<5)	(5-9)	(10-14)	(15-19)	(20-24)	(25-29)	(30-34)	(35-39)	(>40)	
Cigarettes										(68)
Pipe										(69)
Cigars										(70)

If cigarettes, how many packs per day? (Write in number of cigarettes)

(1) ☐ less than 1/2 pack (71)
(2) ☐ 1/2 pack, but less than 1 pack
(3) ☐ 1 pack, but less than 1-1/2 packs
(4) ☐ 1-1/2 packs or more

Number of pack years: ____(72,73)

If an ex-smoker (cigarettes, cigar or pipe), how long since you stopped? ____(74)
(Write in number of years)

(1) ☐ 0-1 year
(2) ☐ 1-4 years
(3) ☐ 5-9 years
(4) ☐ 10+ years

*Have you changed your smoking habits since last interview? If yes, specify what changes.

I. OCCUPATIONAL HISTORY**

Have you ever worked in: A foundry? (As long as one year) ____Yes____No____(75)

Stone or mineral mining, quarrying or processing? (As long as one year) ____Yes____No____(76)

Asbestos milling or processing? (Ever) ____Yes____No____(77)

Cotton or cotton blend mill? (For controls only) ____Yes____No____(78)

Other dusts, fumes or smoke? If yes, specify: ____Yes____No____(79)

Type of exposure ____

Length of exposure ____

**Ask only on first interview.

At what age did you first go to work in a textile mill? (Write in specific age in appropriate square).

(1)	(2)	(3)	(4)	(5)	(6)
<20	20-24	25-29	30-34	35-39	40+

(80)

When you first worked in a textile mill, did you work with (1) ☒ Cotton or cotton blend (81)
(2) ☐ Synthetic or wool

Within the first few days you first worked in a textile mill, do you remember becoming sick with fever, chills, cough or sickness of the stomach? (Accept any of the above signs or symptoms)_____Yes_____No_____(82)

If "no" to (75): Have you ever had such an illness after returning to the mill after a few days away from the mill?_____Yes_____No_____(83)

How many years have you worked in a textile mill? (Write in total number of years in appropriate square)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
Processing:	<1	1-4	5-9	10-14	15-19	20-24	25-30	30+	
Cotton or Cotton Blend									(84)
All Synthetic or Wool									(85)

If cotton, how many years did you spend in each area? (Write in years in each area)

	(86) Open	(87) Pick	(88) Card	(89) Spin	(90) Wind	(91) Twist	(92) Spool	(93) Warp	(94) Slash	(95) Weave	(96) Other	
<1												(1)
1-4												(2)
5-9												(3)
10-14												(4)
15-19												(5)
20-24												(6)
25-29												(7)
30+												(8)

For those working in more than one area:

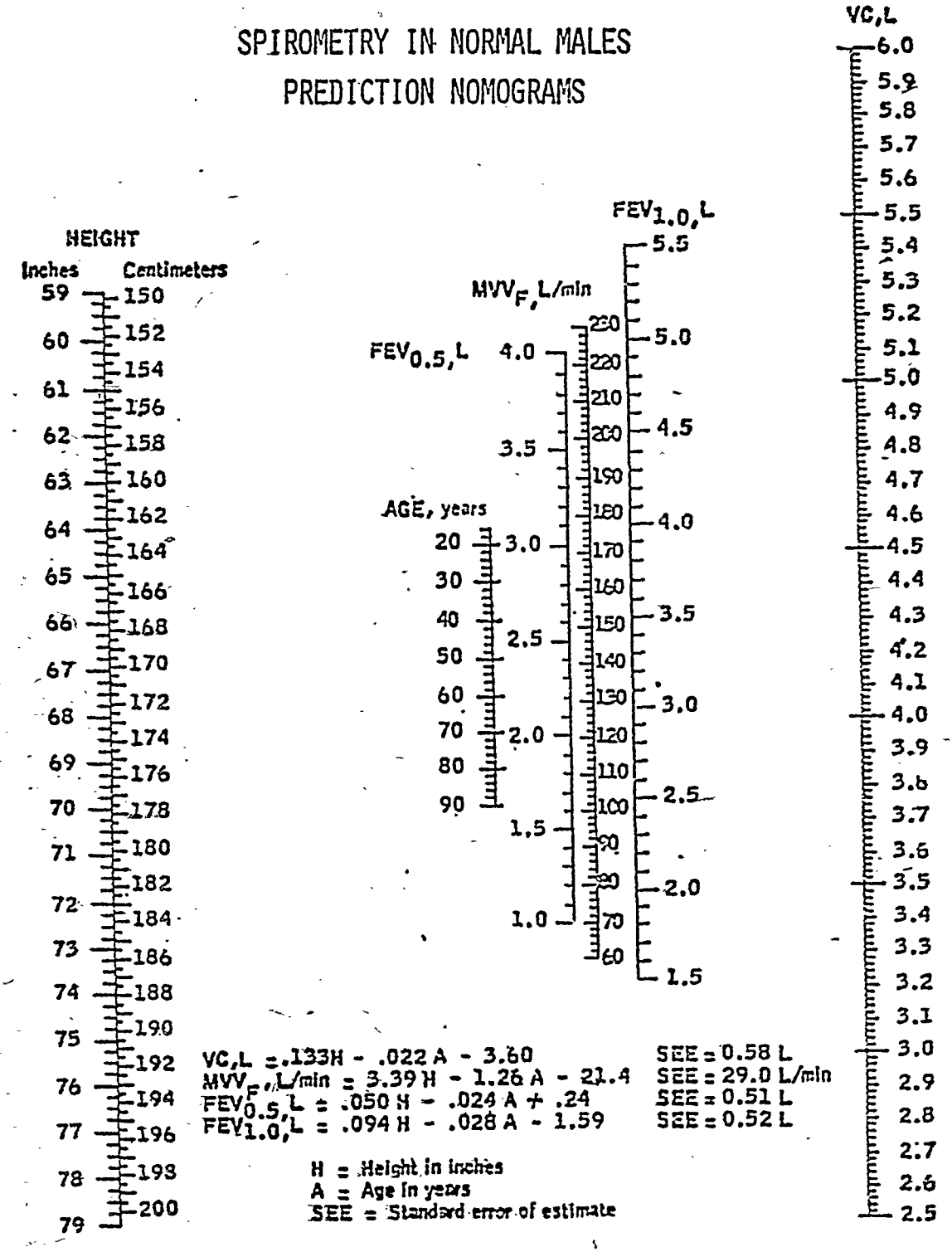
Did you move from a dusty work area to one that was not as dusty?_____Yes_____No_____(97)

If yes, did you move because the dust bothered your breathing?_____Yes_____No_____(98)

APPENDIX C

V.A. COOPERATIVE STUDY
Spirometry in Normal Males
Prediction Nomograms

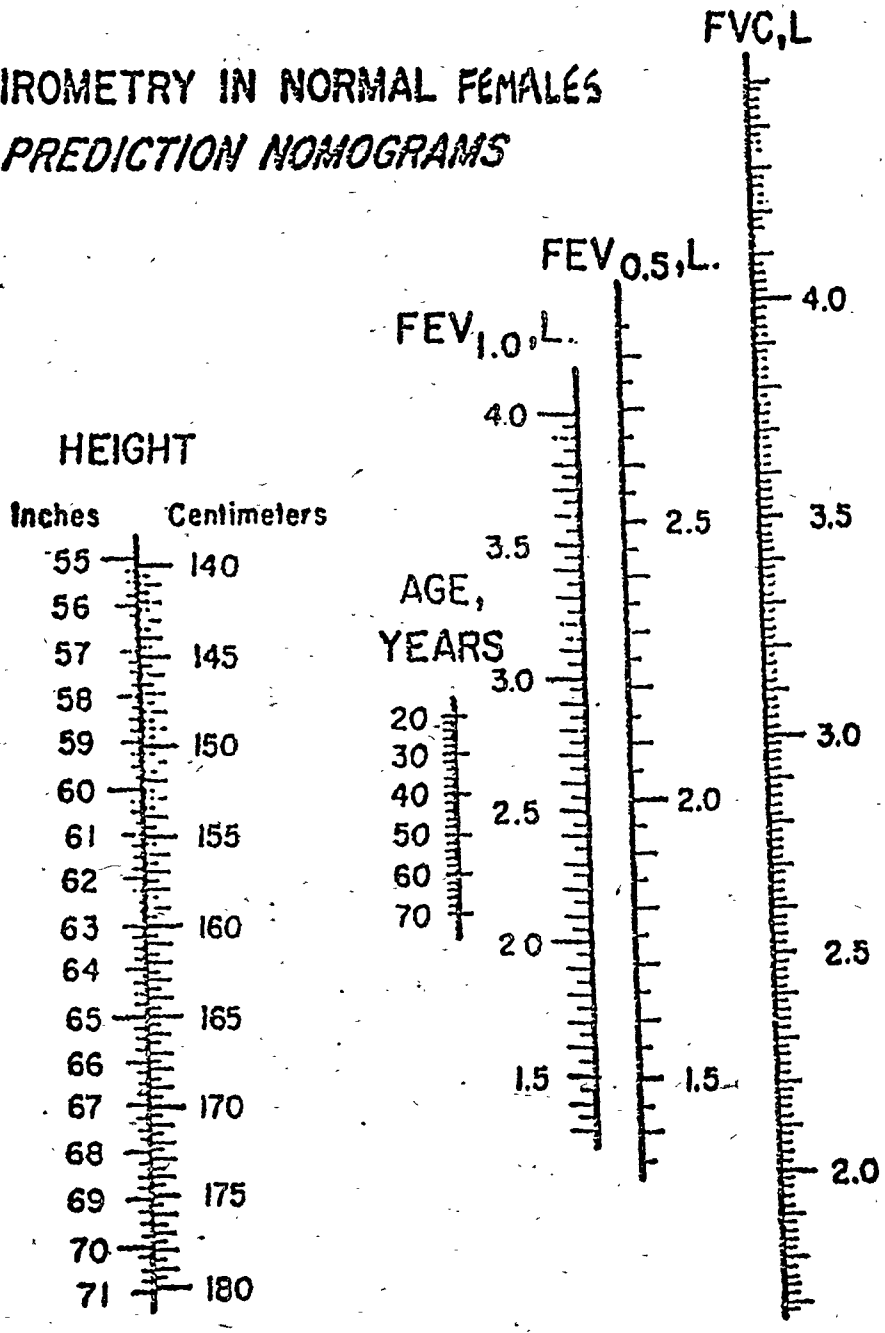
SPIROMETRY IN NORMAL MALES
PREDICTION NOMOGRAMS



VC,L = .133H - .022 A - 3.60	SEE = 0.58 L
MVV_F,L/min = 3.39 H - 1.26 A - 21.4	SEE = 29.0 L/min
$FEV_{0.5}$,L = .050 H - .024 A + .24	SEE = 0.51 L
$FEV_{1.0}$,L = .094 H - .028 A - 1.59	SEE = 0.52 L

H = Height in inches
A = Age in years
SEE = Standard error of estimate

SPIROMETRY IN NORMAL FEMALES
PREDICTION NOMOGRAMS



$FVC = 0.041\,H - 0.018A - 2.689$ (SEE = 0.371)

$FEV_{0.5} = 0.018\,H - 0.011A - 0.297$ (SEE = 0.306)

$FEV_{1.0} = 0.028\,H - 0.021A - 0.867$ (SEE = 0.330)

H = Height in cm. A = AGE in years. N = 450

SEE = Std. Error of Estimate

The following guidelines are recommended for use in evaluating pulmonary function results in conjunction with the monograms of this appendix.

1. In black persons, the predicted value for FVC obtained from the monogram should be multiplied by 0.85 to adjust for the 15% lower FVC.

2. The measured value for FVC should not be less than 75% of that predicted for age, sex, and height.

4. In Part 1928 of 29 CFR, § 1928.21 would be amended by adding the following item to paragraph (a) of § 1928.21:

§ 1928.2 Applicable standards in 29 CFR Part 1910.

(a) * * *

(5) Cotton dust—§ 1910.1043.

(Secs. 4, 6, 8, 84 Stat. 1592, 1593, 1599, (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 CFR Part 1911.)

[FR Doc.76-37893 Filed 12-22-76;2:00 pm]

federal register

TUESDAY, DECEMBER 28, 1976

PART IV

SECURITIES AND EXCHANGE COMMISSION

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SHORT SALES OF SECURITIES AND PROHIBITIONS RELATING TO PUBLIC OFFERINGS

Proposed Rulemaking

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-13091; File No. S7-665]

SHORT SALES OF SECURITIES

Public Fact-Finding Investigation and Rulemaking Proceeding

The Securities and Exchange Commission announced today that it has ordered a public investigatory and rulemaking proceeding to ascertain facts, conditions, practices and other matters relating to short sales of securities registered, or admitted to unlisted trading privileges, on national securities exchanges. The purpose of this investigatory and rulemaking proceeding is to gather evidence as to whether regulation of short sales of all securities registered, or admitted to unlisted trading privileges, on national securities exchanges of the type currently provided by the Commission's primary short sale rule, Rule 10a-1 (17 CFR § 240.10a-1) under the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975), is needed in today's regulatory environment.[1]

In connection with this investigatory and rulemaking proceeding, the Commission is publishing for comment proposed temporary Rules 10a-3(T) [A], 10a-3(T) [B] and 10a-3(T) [C] (17 CFR §§ 240.10a-3(T) [A], 240.10a-3(T) [B] and 240.10a-3(T) [C]) and proposed Rule 10b-11 (17 CFR § 240.10b-11). Proposed Rules 10a-3(T) [A], 10a-3(T) [B], and 10a-3(T) [C] would suspend in part, to varying degrees, the operation of the "tick" test provisions of Rule 10a-1 under the Act, while proposed Rule 10b-11 would establish explicit borrowing requirements in connection with short sales. The Commission invites written views, data and arguments with respect to whether the Commission should adopt any of the alternative rules regarding the suspension of the "tick" test proposed herein (or some variation thereof), as well as with respect to various other issues and questions discussed herein relating to the need for or manner of regulating short sales.

The investigatory and rulemaking proceeding commenced today is intended to be the first step in a thorough and comprehensive reexamination of short sale regulation in the light of changing market and regulatory conditions and to provide a framework for public discussion of the issues involved. In commencing this proceeding, and in publishing for comment proposed ules 10a-3 (T) [A], 10a-3(T) [B], and 10a-3(T) [C], the Commission wishes to emphasize, however, that it has reached no conclusions with respect to the desirability of removal, either in whole or in part, of the existing "tick" test provisions of Rule 10a-1. Assuming that such removal would be appropriate, at least on an experimental basis, the Commission has also not resolved either the scope or timing of such an experiment.

First, as more fully discussed infra, the Commission may wish to defer the commencement of any deregulation experiment until it has in place a comprehensive monitoring and data collection program with respect to short selling and has gathered data for comparison purposes with respect to short sale activity under the existing regulatory environment. In addition, because of the significant structural changes now occurring in the securities markets, the Commission may wish to defer a deregulation experiment relating to short selling until it has had a further opportunity to observe the effects of these changes in functioning of the markets. For example, the Commission is currently considering rule proposals filed by several national securities exchanges contemplating the introduction of trading in put options. On July 7, 1976, the Commission announced (in Securities Exchange Act Release No. 12601), that, while it would not make a decision respecting the initiation of exchange puts trading until after January 1, 1977, in order to fully analyze a number of unresolved regulatory, surveillance and economic issues, it "recognize[d] the economic logic for the extension of existing exchange option trading to include puts." Should the Commission authorize a pilot program in puts trading after January 1, 1977, it may be appropriate to defer any short sale deregulation experiment until the impact of exchange put trading on the securities markets can be reviewed in light of actual experience.

Finally, the Commission wishes to point out that the commencement of this investigatory and rulemaking proceeding does not at this time alter the existing short sale regulatory scheme. All persons are reminded that, until such time (if ever) as the Commission takes further action to adopt one of the alternative rules proposed herein(or some variation thereof), short sales of securities registered, or admitted to unlisted trading privileges on, national securities exchanges, must comply fully with Rule 10a-1 under the Act (and all other applicable provisions of the federal securities laws).

I. Background

Short selling has been the subject of Commission regulation since 1938.[2] The Commission has consistently analyzed short sale regulation in terms of three possible objectives:

(i) Allowing relatively unrestricted short selling in an advancing market;

(ii) Preventing short selling at successively lower prices, thus eliminating short selling as a tool for driving the market down; and

(iii) Preventing short sellers from accelerating a declining market by exhausting all remaining bids at one price level, causing successively lower prices to be established by long sellers.[3]

Prior to April 30, 1976, the permissibility of short sales under Rule 10a-1 (17 CFR § 240.10a-1) was determined for a particular exchange by applying the so-called "tick" test to the proposed short sale, comparing the price of the proposed short sale to immediately preceding transactions in the security to be sold short occurring on that exchange. Thus, Rule 10a-1 (17 CFR § 240.10a-1), as then in effect, prohibited the short sale of any security on an exchange below the price at which the last sale was effected (i.e., on a minus tick) or at the last sale price if the immediately preceding trade at a different price was higher (i.e., on a zero minus tick).[4] "Regional" stock exchanges, however, could avail themselves of the so-called "equalizing exemption" to the foregoing general rule provided in paragraph (d)(6) of Rule 10a-1, as in effect prior to amendment, which permitted a short sale on an exchange if necessary to equalize the price of a security with its current price in the "principal exchange market" for that security.[5] Thus, this exemption per-

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[1] See Securities Exchange Act Release No. 12384 (April 28, 1976) at 3, 41 FR 19229 (1976). The Commission's short sale rules under the Act are Rules 3b-3, 10a-1, and 10a-2 (17 CFR 240.3b-3, 240.10a-1, 240.10a-2).

[2] In 1934, the Senate Banking and Currency Committee found that "few subjects relating to exchange practices have been characterized by greater differences of opinion than that of short selling." S. Rept. No. 1455, Report on Stock Exchange Practices of the Senate Comm. on Banking and Currency. 73d Cong., 2d Sess. 50 (1934) ("S. Rept. No. 1455"). See also id. at 50-54; Committee on Stock Exchange Regulation, Report to Secretary of Commerce, 73d Cong., 2d Sess. 17 (Comm. Print 1934). Rather than abolish the practice, however, Congress granted the Commission plenary power to regulate short sales in listed securities in order to "purge the markets of the abuses connected with these practices." S. Rep. No. 1455 at 55. See also H.R. Rep. No. 1383, 73d Cong., 2d Sess. 11 (1934).

The Commission did not adopt a rule immediately, but instead, in 1935, requested the exchanges to regulate the practice. Securities and Exchange Commission, First Annual Report 16 (1935). The exchanges adopted general rules prohibiting all sales which had the effect of "demoralizing" the market, including a short sale below the previous sale. 2 Securities & Exchange Commission, Report of Special Study of Securities Markets, H. Doc. No. 95, 88th Cong., 1st Sess. 251 (1963) ("Special Study"). Following a study of the market break of 1937, however, the Commission adopted its own rule, which prohibited all short sales at or below the last sale. Securities Exchange Act Release No. 1548 (January 24, 1938), 3 FR 213 (1938). New York Stock Exchange ("NYSE") officials urged revision of the rule and the Commission adopted the rule in the form which was in effect until April 30, 1976, in March, 1939. Securities Exchange Act Release No. 2039 (March 10, 1939), 4 FR 1209 (1939). See 2 Special Study 252.

[3] Securities Exchange Act Release No. 11468 (June 12, 1975) at 3, 40 FR 25443 (1975).

[4] See generally Securities Exchange Act Release No. 2039 (March 10, 1939), 4 FR 1209 (1939). 2 Special Study 251-52.

[5] See Securities Exchange Act Release No. 1579 (February 10, 1938), 3 FR 382 (1938). Operation of the equalizing amendment under Rule 10a-1, as in effect prior to amendment and under the rule after amendment on June 12, 1975, is discussed in Securities Exchange Act Release No. 11468 (June 12, 1975), 40 FR 25442 (1975).

mitted a short sale to be effected on a "regional" exchange at a price equal to the last sale in the primary market regardless of whether the last sale in that market was effected on a plus or minus tick and regardless of whether the "equalizing" short sale represented a minus tick in the market in which it was executed. Finally, although section 10(a) of the Act (15 U.S.C. 78j(a)) authorizes the Commission to adopt comprehensive short sale regulation for securities "registered" on a national securities exchange, whether such sales are effected thereon or by means of another instrumentality of interstate commerce, Rule 10a–1, as in effect prior to June 12, 1975 (on which date amendments to the rule were adopted which became operative on April 30, 1976), applied only to exchange transactions.

On June 12, 1975, the Commission adopted amendments to its short sale rules to provide for comprehensive regulation of short sales of listed securities in all markets (including the over-the-counter market) in conjunction with the full implementation of the consolidated transaction reporting system (the "consolidated system") contemplated by Rule 17a–15 under the Act (17 CFR § 240.17a–15).[6] Those amendments, which, as noted above, became operative on April 30, 1976,[7] prohibit any person from effecting a short sale of a reported security at a price below the price of the last sale thereof, or at the price of the last sale thereof if the preceding different sale was effected at a higher price, reported in the consolidated system.[8] In addition to altering the reference point for determining the permissibility of short sales (which theretofore, as discussed above, had been the last sale on the several exchanges), the amendments also altered the reference point for so-called "equalizing short sales" to refer to the last sale reported in the consolidated system.[9] Finally, as amended on June 12, 1975, Rule 10a–1 permits an exchange to make an election as to whether short sales of reported securities in its market are to be governed by a "tick" test referenced to the last sale reported in the consolidated system or one referenced to the last sale reported in that exchange's market.[10]

* * * * *

In the course of the Commission's review of short sale regulation during the process of formulating the recent amendments to its short sale rules and consideration of certain short sale rule proposals advanced by the "regional" exchanges,[11] the Commission has reconsidered the nature and role of such regulation and has concluded that the continuation of the short sale rules, and regulation of short selling, may no longer be required except perhaps in certain limited circumstances (e.g., in connection with underwritten offerings, and possibly other circumstances.)[12] In reaching this conclusion, the Commission has considered, among other things, (i) the fact that, despite efforts to achieve uniform and comprehensive regulation of short selling, the recent amendments and proposals have demonstrated the increasing complexity of the short sale rules and the fact that Rule 10a–1 has had, and continues to have, an undesirable competitive impact on individual market centers as a consequence of differences in its application to different categories of market participants, (ii) the lack of reliable information (including current statistical studies) with respect to the pattern of short selling in today's markets, the general effect of short selling, and the efficacy of short sale regulation as currently in effect, (iii) whether the goals of short sale regulation continue to be desirable objectives (particularly if they can be pursued only by means of short sale rules of the type currently employed), and (iv) the growing support of academicians and certain self-regulatory organizations[13] for the elimination of short sale regulation except to the extent that short selling is used as a manipulative device.

A. Competitive Impact of Short Sale Rule. As more fully set forth below, short sale regulation, by its very nature, has allegedly imposed burdens on competition by restricting short selling under certain circumstances, thereby precluding short sellers from competing with long sellers for executions when the provisions of the short sale rule apply.[14]

Moreover, the short sale rule has always applied differently to various market centers and has differentiated in its application among types of short sellers. Because of the "tick" test mechanism by which existing short sale regulation functions and the operation of the "equalizing exemption," short sales at a given price which can be effected legally in one market may not be permissible in another market. Similarly, the existing short sale regulatory scheme has established relatively favored and disfavored categories of short sellers in terms of the price levels at which permissible short sales may be effected under the rule. As a result, it is argued that the operation of Rule 10a–1 has had, and continues to have, an impact on the allocation of order flow among the various market centers—an impact substantial

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[6] Securities Exchange Act Release No. 11468 (June 12, 1975), 40 FR 25442 (1975). The desirability of such comprehensive regulation of short selling was recognized by the Commission in its Policy Statement on the Structure of a Central Market System. See Securities and Exchange Commission, Policy Statement on the Structure of a Central Market System (March 29, 1973) at 32, 66. See also Advisory Committee on a Central Market System, Interim Report to the Securities and Exchange Commission on Regulation Needed to Implement a Composite Transaction Reporting System (October 11, 1972) ("Advisory Committee Interim Report").

The Commission first published proposed amendments to the short sale rules on March 6, 1974, Securities Exchange Act Release No. 10668 (March 6, 1974), 39 FR 10604 (1974) and, after revisions in light of the comments received, adopted those amendments on September 27, 1974 (effective October 4, 1974) (the "October Amendments"). Securities Exchange Act Release No. 11030 (September 27, 1974), 39 FR 35570 (1974). The October Amendments to Rules 10a–1 and 10a–2 were suspended temporarily by the Commission pending further study in response to representations made to the Commission by certain self-regulatory organizations that implementation of the October Amendments would result in serious operational and other difficulties in regulating short sale transactions in their markets. Securities Exchange Act Release No. 11056 (October 17, 1974), 39 FR 37971 (1974). See also Securities Exchange Act Release Nos. 11051 (October 15, 1974) and 11051A (November 17, 1974). On March 5, 1975, the Commission published for comment additional proposed amendments to Rule 10a–1 (the "March Proposals"), which were intended to ameliorate the difficulties perceived by those self-regulatory organizations. Securities Exchange Act Release No. 11276 (March 5, 1975), 40 FR 12522 (1975). The amendments to the short sale rule adopted on June 12, 1975, in substance, are an implementation of the March Proposals.

On June 12, 1975, the Commission also proposed certain additional amendments to the short sale rules. The proposed amendments related to (i) the reference point for application of the "tick" test under paragraph (a)(1) of Rule 10a–1 and (ii) the scope of the exemption afforded by pargaraph (e)(5) of that rule. After reviewing the comments received on the proposals (including the views of certain self-regulatory organizations presented at a public meeting held on April 26, 1976), the Commission determined to withdraw the proposed amendments. Securities Exchange Act Release No. 12384 (April 28, 1976), 41 FR 19229 (1976).

[7] See Securities Exchange Act Release Nos. 12138 (February 25, 1976) and 12384 (April 28, 1976), 41 FR 19229 (1976).

[8] See Securities Exchange Act Release No. 11030 (September 30, 1974) at 1, 39 FR 35570 (1974).

[9] Rule 10a–1(e)(6) (17 CFR § 240.10a–1(e)(6)). The amendments contain certain other minor changes from Rule 10a–1 as in effect prior to those amendments. See Securities Exchange Act Release Nos. 11030 (September 27, 1974), 39 FR 35570 (1974) and 11468 (June 12, 1975), 40 FR 25442 (1975).

[10] This aspect of the short sale rule, as amended, was designed to ameliorate potential regulatory and operational problems perceived by certain exchanges with a uniform short sale rule employing a "tick" test referenced to the consolidated system. See Securities Exchange Act Release No. 11468 (June 12, 1975) at 5, 40 FR 25444 (1975). To date such elections have been made by the NYSE and the American Stock Exchange ("Amex"). See Securities Exchange Act Release Nos. 12201 (March 12, 1976), 41 FR 11907 (1976), and 12357 (April 21, 1976), 41 FR 17633 (1976). Rule 10a–1, as amended, also permits an exchange to foreclose use of the equalizing exemption by its specialists and market makers. Securities Exchange Act Release No. 11468 (June 12, 1975) at 5, 40 FR 25444 (1975). While the NYSE has chosen to foreclose use of the equalizing exemption by its specialists, the Amex has not.

[11] See Securities Exchange Act Release No. 12384 (April 28, 1976), 41 FR 19229 (1976).

[12] Id. at 2, 41 FR 19230 (1976).

[13] See note 90 infra.

[14] See discussion at p. 47 infra. It is also argued that the limitations on sellers created by the short sale rule may have adverse effects on purchasers who will wish to buy at as low a price as is available in an open market.

enough to affect competition among these centers.[15]

B. *Studies of Short Selling.* Consideration of whether short sale regulation continued to be appropriate in today's markets, in light of the burdens on competition which allegedly result from such regulation, has been hampered by a lack of data concerning short selling, particularly on "regional" exchanges and in the over-the-counter market.[16] Moreover, although several studies have been conducted during the past forty years with respect to short sale activities, those studies do not demonstrate conclusively the effects of short selling or the efficacy of short sale regulation.

Virtually no statistical information concerning the incidence of short selling was available until 1931.[17] Although the NYSE, following the collapse of the market in October, 1929, did conduct a survey of the short interest of its members as of November 12, 1929,[18] the collection of short sale statistics on a regular basis did not begin until May 23, 1931,[19] and then only in the face of allegations that the severe market decline experienced in the 1929–1931 period "was the work of a group of wicked bear raiders—professional speculators—who by selling short were driving prices lower and preventing recovery."[20] The first published statistics which related to the short interest[21] of NYSE members in individual stocks and on an aggregate basis, released in late 1931,[22] revealed very little useful information concerning the relation of short selling to trends in securities prices. The statistics merely demonstrated that price declines of certain securities were accompanied by both rising and falling levels of short interest; similarly, in situations where stocks advanced, both increases and decreases in the short interest were reported.[23]

The initial attempt at a comprehensive statistical study of the effects of short selling was conducted in late 1933 by the Twentieth Century Fund, Inc.[24] The study attempted to analyze the impact of short selling through an analysis of the published data on the short interest of NYSE members together with certain unpublished statistics made available to the study group by the NYSE.[25] The study concluded that, in general, short selling did not have "any appreciable effect in limiting the extremes to which prices may rise."[26] In both long and short term stock movements, the study concluded that short selling was "likely to appear after prices have started downward and to grow in volume as they continue downward, to be covered through purchases either at lower price levels or after prices have turned upward."[27] The main tendency of short selling appeared to be "to accelerate the downward trend to prices during the early and middle phases of [downward price] movement[s] * * *"[28]

In announcing these results, however, the Securities Market Study noted that "[t]he short selling statistics compiled by the New York Stock Exchange are not * * * complete."[29] It cautioned that the supporting evidence for the conclusions reached was fragmentary and that "more complete evidence might lead to somewhat different conclusions."[30]

During the latter part of 1937, the Commission instituted its own analysis of short selling "to study at first hand the effects of short selling in a rapidly declining market."[31] The study focused on two weekly periods during September and October, 1937—periods which the Commission described as "characterized by a large volume of trading, erratic intermediate price movements and insensitive liquidation."[32] From this study the

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[15] The recent history of the Commission's efforts to deal with these factors in reviewing short sale regulation to comport with the implementation of the consolidated system has been set forth at length in prior releases. See note 6 supra; letter from Robert J. Birnbaum, Senior Vice President, American Stock Exchange, Inc., to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, June 20, 1974, at 5; letter from James E. Buck, Secretary, New York Stock Exchange, Inc., to George A. Fitzsimmons, Secretary, Securities anad Exchange Commission, June 1, 1974, at 6, 8; letter from Kenneth I. Rosenblum, Vice President and Counsel, Midwest Stock Exchange, Inc., to Robert C. Lewis, Associate Director, Division of Market Regulation, November 25, 1974; letter from Arnold Staloff, Vice President, PBW Stock Exchange, Inc., to Robert C. Lewis, Associate Director, Division of Market Regulation, November 8, 1974; letter from Charles J. Henry, Vice President, Pacific Stock Exchange, Inc., to Robert C. Lewis, Associate Director, Division of Market Regulation; November 14, 1974; letter from Kenneth I. Rosenblum, Vice President and Counsel, Midwest Stock Exchange, Inc., to Ray Garrett, Jr., Chairman, Securities and Exchange Commission, June 4, 1975, at 1; letter from Elkins Wetherill, President, Philadelphia Stock Exchange, to Roderick M. Hills, Chairman, Securities and Exchange Commission, September 30, 1976. All of these letters are contained in Commission File No. S7-515. See also Advisory Committee Interim Report, supra note 6, at 3, 6-7; Securities and Exchange Commission, Forty First Annual Report 14–15.

[16] See Securities Exchange Act Release No. 11276 (March 5, 1975) at 2, 40 FR 12522 (1975).

[17] During World War I, the NYSE collected limited information concerning short sales. At that time, it was feared that excessive selling or "bear raiding" in the stock markets could impair the war effort by impairing public confidence and interfering with the flotation of Liberty Bond issues. J. Meeker, Short Selling 122 (1932) ("Meeker"). Moreover, there was concern that "[e]nemy agents * * * might willingly lose large sums of money in raiding the market, if it could slow up American war efforts." Id. As a result, the NYSE appointed a special committee to make recomendations concerning the administration of the NYSE under wartime conditions. Id.

In November, 1917, upon the recommendation of this special committee, the NYSE adopted a resolution requiring all NYSE members and firms to report daily the amounts and identity of all borrowings of stock and on the size of their short position. Id. NYSE members were also required to attach to these reports a sealed envelope containing the names of those persons who had sold short. Id. NYSE members and their customers were notified that "if any 'bear raids' were attempted, the [NYSE] would open these envelopes, discover the parties responsible therefor and make the facts public." Id. This latter step was never taken and the system of reporting was abandoned; the information collected by the NYSE during this period was never made public.

[18] Stock Exchange Practices, Hearings on S. Res. 84 Before the Senate Comm. on Banking and Currency 72d Cong., 1st Sess. 146–47 (1932) (testimony of Richard Whitney, President, New York Stock Exchange) ("Stock Exchange Practice Hearings"); Meeker, supra note 17, at 125, 251. The results of this survey are published in Stock Exchange Practice Hearings, Appendix to Parts 1, 2, and 3, at 12. The collection of statistics proceeded for several weeks and was then discontinued. Stock Exchange Practice Hearings at 146–47.

[19] Stock Exchange Practice Hearings, supra note 18, at 45; Meeker, supra note 17, at 127. Certain statistics of a general nature were collected in late 1930, but the program began in 1931 was the first of a systematic nature. Stock Exchange Practices at 45, 147. The program initiated in May, 1931 required reports on a weekly basis. Id. at 45; Meeker at 127, 253. That program continued until September 21, 1931, at which time reports were required on a daily basis. Stock Exchange Practice Hearings at 45; Meeker at 127, 256. Daily reporting then continued until September, 1932, when weekly reports were then reinstituted. F. Macaulay, Short Selling on the New York Stock Exchange 30 (1951) ("Twentieth Century Fund Study"). After June, 1933, reports were made available monthly. Id.

[20] J. Flynn, Security Speculation 216 (1934), reprinted in II L. Loss, Securities Regulation 1166 (1961) ("Loss").

[21] The short interest for a particular stock is the total number of shares that have been sold short and still have not been covered by a purchase at a given date. G. Leffler and L. Farwell, The Stock Market 221 (1963) (Leffler and Farwell).

[22] Figures relating to the size of the short interest of NYSE members were released in part on October 16, 1931, by then President Richard Whitney in a public address. Meeker at 128. On October 19, 1931, the NYSE released the full series of aggregate statistics from May 25, 1931, through October 7, 1931. Id. Subsequently, on December 16, 1931, the NYSE released complete statistics for the aggregate short interest and the short interest for individual securities during the period May 25, 1931, through November 30, 1931. New York Stock Exchange, Statistics in Regard to Short Selling (1931).

[23] See Meeker, supra note 17, at 139–40.

[24] The study focused on all aspects of the securities markets. See Stock Exchange Practices, Hearings on S. Res. 84, S. Res. 56 and S. Res. 97 Before the Senate Comm. on Banking and Currency, 73d Cong., 1st Sess., pt. 15, at 6936 ("Stock Exchange Practice Hearings—73d Congress"). A summary of the findings of the staff was published in 1934. Twentieth Century Fund, Inc., Stock Market Control (1934). The full text of the research findings of the study group was published in 1935. Twentieth Century Fund, Inc., The Security Markets (1935) ("Security Markets Study").

[25] Security Markets Study, supra note 24, at 365–67.

[26] Id. at 397.

[27] Id.

[28] Id.

[29] Id. at 367.

[30] Id. at 397.

[31] Loss, supra note 20, at 1229; see Securities and Exchange Commission, Fourth Annual Report 87 (1938).

[32] Securities Exchange Act Release No. 1548 (January 24, 1938) at 6.

Commission concluded "that members trade predominantly with the price trend on balance" and "that in a declining market certain types of short sales are seriously destructive of stability."[33]

The conclusions of this study resulted in the adoption in January, 1938, of the Commission's initial short sale rule.[34] In commenting on the relation between the Commission's study and the adoption of the short sale rule, then Chairman William O. Douglas wrote that the study showed that "it was pounding by the short seller which increased the downward momentum of the market."[35] "That discovery," commented Douglas, "led [the Commission] to promulgate * * * the short sale rule which is still in effect and which is in a sense a cotter pin in a declining market. * * *"[36]

The 1937 Commission study has been criticized on several grounds. First, it is argued that the Commission drew its conclusions from inadequate data and that the information released by the Commission merely demonstrates trends over a short period of time—trends which are inconclusive with respect to the general impact of short selling. Second, although the Commission indicated that "[t]he study of short selling by the Commission's staff will, of course, be a continuing one," and that "[a] detailed report on [short selling would] be available in the near future,"[37] no further information with respect to the 1937 study was disseminated.

At the same time the Commission was undertaking its study of short selling, the NYSE requested the Twentieth Century Fund "to make an independent appraisal of the recorded data on short selling."[38] The study, which was not released until 1951, focused primarily on statistical information with respect to short positions and prices of individual stocks and groups of stocks during the period from May 23, 1931 through December 31, 1939,[39] although the study group also examined extensive nonstatistical information, including private NYSE files relating to short selling and investigations made by NYSE officials into cases of alleged manipulation or raiding.[40]

The study concluded that "there appeared to be no conclusive statistical evidence that short selling materially affected the extent of a major decline or a major advance in the market as a whole,"[41] and that the influence of short selling in the years immediately preceding publication of the study "has been completely negligible."[42] The study further concluded "that short selling seldom, if ever, exerted a determining influence on even the 'intermediate' movement of stock prices during the period analyzed."[43]

With respect to short term price movements, the study stated that "in some instances during the period covered by [the] investigation short selling had a temporarily disorganizing effect on the market for particular stocks."[44] The study noted, however, that the short sale regulations of the Commission and the NYSE adopted during the 1930's "seem . . . to have eliminated even such sporadic outbursts."[45]

With respect to short sale activities in the early days of the NYSE (for which there were only nonstatistical records), the authors found "little doubt that short selling often had a temporarily disorganizing effect on the price movements of a particular stock and sometimes of the market as a whole."[46] The study stated, however, that

> [t]here seems little doubt that, even in those days, it was ever a serious factor in determining the *larger and longer-term* movements of the market in general or even of individual stocks.[47]

Although the Twentieth Century Fund Study was the most comprehensive conducted at that time, its staff recognized that "the factual material at the disposal of the research staff [had] serious limitations."[48] First, the data used related primarily to short positions at particular points in time, which do not give a complete picture of short selling because they do not capture all short sale activity (including short positions subsequently covered).[49] Second, the study staff noted that data for the early years of the study was not broken down according to the type of trader involved, except for odd-lot houses.[50] It was therefore impossible for the study to measure the relative importance of the various types of short selling which the study generally identified—speculative short selling, short selling "against the box,"[51] arbitrage, hedging, and selling of various kinds by floor traders, members and nonmembers.[52]

The next statistical study of the impact of short selling was the Special Study of the Securities Markets.[53] The Special Study made use of various data derived during the previous studies of short selling, augmented by data filed with the Commission by the NYSE on a continuing basis and by members' reports on file with that exchange.[54] To further supplement this data, the Special Study obtained additional statistics on short selling for limited periods.[55]

The Special Study produced detailed statistical information indicating the general percentage breakdown of short selling by market professionals. The Special Study found that "specialists do the greatest amount of short selling, partly because their obligation to maintain fair and orderly markets frequently leads them to make short sales."[56] During the years immediately preceding the Special Study, short selling by specialists ordinarily represented 40 to 70 percent of total short sales by exchange members.[57] The Special Study also found that, as a percentage of their own sales, specialists' short selling was approximately 15 to 20 percent, and had a tendency to decrease during market advances and to increase during market declines.[58]

Short sales by off-floor members represented 10 to 25 percent of total short selling by members, and their short sales amounted to from 8 to 25 percent of their own total sales.[59] Off-floor traders tended to decrease their short activity more markedly than specialists during advances and to increase it more markedly than specialists during declines.[60] Floor traders' short sale activities accounted for only 2 to 10 percent of total short selling by members, but amounted to from 5 to 15 percent of their total sales.[61]

Round lot short selling by nonmembers customarily accounted for less than one-half of all short sales, but the Special Study found that this proportion tended to increase during a sharp decline.[62] In addition nonmembers' short selling in the aggregate was ordinarily small compared with total sales by nonmembers, especially toward the end of rising markets when the ratio tended to fall below 1 percent.[63]

With respect to general market effects of short selling, the Special Study was

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[33] Id. at 5, 8.

[34] In fact, the pertinent data from the study was published as part of the Commission release promulgating the short sale rule. Id. at 5–8.

[35] Douglas, Forward, 28 Geo. Wash. L. Rev. 4 (1959).

[36] Id. at 5.

[37] Securities Exchange Act Release No. 1548 (January 24, 1938) at 2.

[38] Twentieth Century Fund Study, *supra* note 19, at ii. This study, although conducted by the same organization, had no relation to the Securities Markets Study described earlier.

[39] *Id.* at 31.

[40] *Id.* at iii.

[41] *Id.* at ix.

[42] *Id.* at xiv.

[43] *Id.* at xiv–xv.

[44] *Id.* at xv.

[45] *Id.*

[46] *Id.* at xiv.

[47] *Id.* (emphasis in original).

[48] *Id.* at iv.

[49] *Id.*, at 31.

[50] *Id.*

[51] Selling "against the box" occurs when a seller actually possesses the security being sold short but makes delivery by borrowing stock rather than delivering the stock he owns. Such a seller may cover either by using his own stock or by effecting a covering purchase in the market. Short sales "against the box" are used primarily for hedging purposes and for tax purposes (to carry over a profit from one year to the next). *See* Leffler and Farwell, *supra* note 21, at 229–30.

[52] Twentieth Century Fund Study, *supra* note 19, at 31. It should also be noted that during virtually all of the period studied short selling was restricted by either exchange or Commission regulation.

[53] A Special Study 246–294.

[54] *Id.* at 147.

[55] *Id.*

[56] *Id.* at 291.

[57] *Id.* at 257, 291.

[58] *Id.* at 266, 291.

[59] *Id.* at 266, 291.

[60] *Id.* at 291.

[61] *Id.* at 266, 291–292.

[62] *Id.* at 271.

[63] *Id.* at 271, 291.

limited to broad conclusions because the only data regularly compiled and published concerning short sales were daily aggregate figures for all stocks on the NYSE and the Amex,[64] and monthly figures on the short positions in certain stocks on the NYSE and in all securities on the Amex.[64] The Special Study did find a tendency for the ratio of short sales to total volume to increase as a market decline progresses (attributable principally to increased short selling by nonmembers), thus calling into question the classic argument that short selling has a stabilizing influence during market declines (because of later covering purchases).[65]

The Special Study found that the number of stocks with relatively large short positions tended to rise as the market declined and to fall as the market advanced.[66] In general, however, the Study found that the large short positions tended to be concentrated in no more than 100 stocks (including the so-called "market leaders" and the "trading favorites").[67] The Special Study noted that "[t]his strong concentration of short selling in a relatively small number of stocks suggests that * * * aggregate [short sale] data * * *, although useful to portray broad patterns, tend to obscure the true significance of short selling."[68]

In an effort to obviate the limiting impact of aggregate statistics, the Special Study examined short selling in eight selected stocks during the period prior to and during the market break of May, 1962.[69] The Special Study noted that most of the eight stocks experienced a declining trend during the period under study, but also experienced a significant increase in short selling.[70] Although varying factors accounted for the large volume of short selling in the eight stocks, the Special Study pointed out that much of the short selling came "during spells of decline," and that "[c]ertain of this extra supply of stock when the market was under heavy selling pressure undoubtedly contributed to the downward movement."[71] Finally, the Special Study stated its view that an awareness of this augmented supply may well have tended to cause professionals on the floor of the NYSE, including specialists, to diminish and withdraw their buying, thereby prolonging the market decline.[72]

The Special Study concluded that the:

substantial volume of short selling in prominent stocks during intervals of price weakness indicates the inadequacy of current [short sale] rules to cope with the harmful effect of short selling which they were devised to prevent.[73]

The Study stated that the short sale rule, because of its reliance on "tick" test and because of the fact that plus or zero plus ticks (which under the rule are the determinants for permissible short sales) may be commonplace during sharply declining markets, was unable to prevent the concentration of short selling "in times of critical market decline, or the concentration of substantial short selling in individual stocks, frequently at moments of great selling pressure in those stocks."[74] As a result, the Special Study concluded that

the present up-tick limitation should be supplemented by a rule or rules designed to cope more effectively with the potentially depressing effects of short selling during price declines.[75]

The inadequacy of data which had hampered previous analyses of the impact of short selling also impaired the usefulness of the results of the Special Study. The Special Study itself chronicled the continuing data deficiencies. With respect to information on file with the Commission, the Special Study noted that "it does not provide, with respect to either round lots or odd lots, the total volume of short selling occurring in single issues over continuous periods of time."[76] The Study also complained that certain of the data available in exchange records did not provide "the most basic material necessary for an appraisal of short selling—a record of total short sales effected in any particular issue either classified by type of seller or, ideally, in terms of each short sale transaction."[77] As indicated previously, because of these data deficiencies only broad conclusions could be derived with respect to the general impact of short selling.[78] Consequently, the Special Study included as one of its main recommendations that improvements be effected in the extent and type of data which should be collected with respect to short sales.[79]

No comprehensive study of the general effects of short selling or the efficacy of short sale regulation as currently in effect has been conducted since the publication of the Special Study in 1963.[80] Furthermore, the availability of data with respect to short selling continues to be inadequate to establish meaningful conclusions in these areas.[81] Finally, pre-

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[64] *Id.* at 291.
[65] *Id.*
[66] *Id.* at 274, 292.
[67] *Id.* at 280, 292.
[68] *Id.* at 292.
[69] *Id.* at 282–288, 292.
[70] *Id.* at 283, 292.
[71] *Id.* at 292.
[72] *Id.*; 4 Special Study 861.
[73] 2 Special Study 292.
[74] *Id.* at 288.
[75] *Id.* at 294. The Special Study did not suggest a particular formulation to implement its recommendation, but did identify possibilities which should be considered, including:

The prohibition of short selling in a particular stock whenever its last sale price was below the prior day's low; or alternatively, whenever the last sale price was a predetermined dollar amount or percentage below a base price (*e.g.*, the prior day's close or low or the same day's opening) as specified in the rule; or instead, given the circumstances of such a decline, a limitation of short sales in any particular stock to a predetermined proportion of the amount of stock available at the prevailing market.

Id. The Commission requested comment with respect to alternatives to the "tick" test provisions of Rule 10a–1, including those discussed above, in connection with its recent amendments to the short sale rules Securities Exchange Act Release No. 10668 (March 6, 1974) at 4–5, 39 FR 10605 (1974). After considering public comments with respect to those alternatives, the Commission determined to retain the "tick" test as the basis for determining the permissibility of short sales.

It should be noted that the Special Study also recommended:

[a]s a further precaution for times of general market distress, the Commission's rules should provide for temporary banning of short selling, in all stocks or in a particular stock, upon an appropriate finding by the Commission of need for such action.

2 Special Study 294.
[76] 2 Special Study 253.
[77] *Id.* at 254.
[78] *See* note 64 *supra* and accompanying text. In any event, as indicated above with respect to the Twentieth Century Fund Study, the period studies was characterized by regulation of short selling.
[79] 2 Special Study 293.
[80] The Commission's staff recently completed an examination of aggregate short sales by specialists, other members of national securities exchanges, and the public during the period 1960 to 1975. The study used data based on gross aggregate short sales for each of these categories of market participants, and compared changes in short sale activity with changes in the Standard & Poor's Composite Stock Index. The results show, on balance, increases in short selling activity tend to be accompanied by increases in price, although the results for public short sales were not conclusive.
[81] The statistical data with respect to short selling is virtually identical to that available at the time of the Special Study, despite recommendations that

"* * * the exchanges should initiate systems of reporting that will provide more frequent information on the volume of short sales in particular stocks as between the public and the principal classes of members. Monthly data on the short interest should show corresponding information in the selected individual stocks. In addition, consideration should be given the feasibility of indicating exempt short sales and furnishing information on the other types of short sales as 'against the box,' arbitrage, and hedging. The Commission also should consider the extent to which short sales data should be reported by other exchanges."

Id. This data consists primarily of (i) weekly reports of daily round lot transactions on the NYSE and the Amex, in which daily aggregate short selling as well as aggregate short selling effected by members for their own account, classified into three categories, (ii) weeky reports of aggregate short sales by odd-lot customers on the Amex, (iii) reports released by the NYSE on a monthly basis providing an aggregate mid-month short interest figure for all stocks, the number of issues in which a short interest was reported, and the actual short interest for certain individual issues, (iv) individual reports on file with the NYSE and the Amex of all clearing members' daily total sales and short sales, and all members' daily total transactions on file with the NYSE and the

vious studies of the short selling phenomenon, despite their comprehensiveness, have not conclusively established either the short or long term effects of short selling, and it may be that no conclusive statistical evidence with respect to that question may be able to be developed without some type of suspension of the existing short sale rules.[52]

C. *Objectives of Short Sale Regulation: Theories For and Against Retention of "Tick" Test Provisions of Rule 10a–1.* In considering whether to adopt the partial suspension of the "tick" test provisions of the short sale rule proposed today, the primary question before the Commission is whether the objectives sought to be achieved by short sale regulation[53] continue to be desirable ones, particularly if they can be pursued only by means of prophylactic regulatory measures of the type now employed (with their consequent impact on competition).[54] What is at issue, in our view, is whether (i) unregulated short selling (except for certain limited circumstances (*e.g.*, in connection with underwritten offerings[55])) has significant potential for abuse as a manipulative device or as a means of "demoralizing" the market (either the general market or the market for a particular security), (ii) short selling continues to have the potential for accelerating market declines, and, if so, whether that potential effect continues to be viewed as undesirable and as a justification for regulatory action, or (iii) unregulated short selling will have undesirable short term effects on public investors and on activities of block positioning firms.

In support of adoption of a derergulation experiment with respect to short selling, it is argued that there is no economic rationale for short sale regulation and that such regulation impedes market efficiency. Under one important theory of market behavior, the ideal market is one in which prices always fully reflect available information so that prices can provide accurate signals for resource allocation—a primary role of the capital market.[56] A market in which prices satisfy this ideal standard of "fully reflecting" available information is deemed to be "efficient" in an economic sense.[57]

The "efficient markets" theory postulates that, if a market has zero transaction costs, if all available information is costless to all interested parties, and if all participants and potential participants in the market have identical time horizons and homogeneous expectations with respect to prices, that market will be efficient and prices in that market will fluctuate randomly.[58] Those conditions cannot, of course, be met by any market, but economists suggest that a market may be characterized as efficient if information is readily available to a sufficient number of investors, transaction costs are reasonable, and there is no evidence of consistency superior or inferior performance by a significant group of investors participating in the market. Although theorists believe that the existence of even these less stringent conditions cannot be determined directly, there are indications that the necessary conditions for efficiency are reasonably descriptive of actual securities markets.[59]

Measuring the existing pattern of short sale regulation against the "efficient markets" hypothesis, it is argued that such regulation prevents the securities markets from being as efficient as they otherwise would be. By preventing short sales on minus or zero minus ticks, it is argued that investors and market professionals are prevented from translating negative perceptions concerning the value of individual stocks or the value of stocks generally into market action as rapidly as they wish, thereby impeding the market from expressing a valuation of securities on the basis of all available information (including all buying and selling interest) and creating inefficiencies in the pricing mechanism.

Professor James H. Lorie of the University of Chicago, in his paper entitled "Public Policy for American Capital Markets," has expressed this argument as follows:

> Present [SEC] rules should be changed whether or not the central market emerges in the recommended form or any other. At the present time, the up-tick rule and the treatment of gains from short-sales as ordinary income make short-selling relatively difficult and costly. Short-selling is no more dangerous or evil than ordinary selling or buying. If short-selling were easier and less costly, there would be more of it with a consequent increase in the liquidity of the market and in its efficiency. At the present time, much research which indicates that securities are overvalued is wasted because of the costs and difficulty of short-selling. As a consequence, prices adjust less certainly and less rapidly in response to research with negative implications.[60]

Amex of members' mid-month short position in each stock, (vi) data relating to all investment account transactions by specialists, and (vii) data relating to all trades for a specialist's own account during short periods in connection with spot checks of specialists' activities. *Cf. id.* at 253–54.

[52] As noted previously, all existing short sale data, with the exception of the small amount of data released by the NYSE regarding the 1929–1931 period, relates to periods during which short selling has been restricted either by exchange or Commission rules. Accordingly, no study completed to date has, or could have, examined the impact of short selling in an unrestricted environment.

[53] *See* page 6 *supra*.

[54] In resolving this question, the Commission does not intend to revisit arguments that short selling is immoral, constitutes illegal gambling activities, and has no economic value or justification and therefore should be prohibited altogether. See S. Rep. No. 1455, *supra* note 2, at 50; Meeker, *supra* note 17, at 45, 77–84; *see generally* Stock Exchange Practice Hearings, *supra* note 18. The legality of short sale contracts is well established, *see Clews v. Jamison*, 182 U.S. 461 (1901); *Hurd v. Taylor*, 181 N.Y. 231, 73 N.E. 977 (1905); Loss, *supra* note 20, at 1226, and the Commission has long recognized that short selling under some circumstances, particularly technical short selling by specialists and market makers, is necessary to facilitate the effective and orderly functioning of the securities markets. See 2 Special Study 249.

[55] The Commission also announced today, in Securities Exchange Act Release No. 34–13092 (December 21, 1976) the publication for comment of a revised version of proposed Rule 10b–21 and amendments to Rules 17a–3(a) (6) and (7). Proposed Rule 10b–21 would establish certain restrictions on short selling immediately prior to and during underwritten public offerings for cash regardless of whether one of the alternative short sale deregulation rules proposed herein (or some variation thereof) is adopted.

[56] Fama, Empirical Capital Markets: A Review of Theory and Empirical Work, J. Finance 383 (1970).

[57] *Id.*

[58] J. Lorie and M. Hamilton, The Stock Market: Theories and Evidence 80 (1973) ("Lorie and Hamilton"). There are three forms of this hypothesis: (i) the weak form; (ii) the semistrong form; and (iii) the strong form.

The weak form asserts that current prices fully reflect the information implied by the historical sequence of prices. Thus, it is asserted that investors cannot improve their ability to select stocks by knowing the history of succesive prices and the results of analyzing them in all possible ways. *Id.* at 71. A number of investigators have found strong evidence to support this hypothesis. *Id.* at 97.

The semistrong form of the hypothesis asserts that current prices fully reflect public knowledge about the underlying companies, and that efforts to acquire and analyze this knowledge cannot be expected to produce superior investment results. *Id.* at 71. Thus, it is asserted that investors cannot expect to earn superior returns by reacting to annual reports, announcements of changes in dividends or stock splits. *Id.* Several studies have lent substantial support for the semistrong form. *Id.* at 88.

The strong form aserts that not even persons with privileged information can obtain consistently, superior investment results since prices reflect not only public information, but also information which may not be generally known, such as information available to security analysts through private or individual inquiries. *Id.* at 71, 97. Findings to date are generally consistent with the strong form of the hypothesis, but deviations from the strong form have been found in studies of specialists and insider trading. *Id.* at 96–97.

[59] *Id.* at 80.

[60] J. Lorie, Public Policy for American Capital Markets at 10 (Department of the Treasury, February 7, 1974). Support for either partial or complete deregulation of short selling (although not necessarily based on the above theory) has also been received from brokers and dealers, as well as various self-regulatory organizations, including the Midwest Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the National Association of Securities Dealers, Inc., (the "NASD"). *See* letter from Donald E. Weeden, Chairman of the Board of Directors, Weeden & Co., Incorporated, to Lee A. Pickard, Director, Division of Market Regulation, November 15, 1974; letter from Donald M. Feuerstein, Partner, Salomon Brothers, to Secretary, Securities and Exchange Commission, May 30, 1974; letter from Donald M. Feuerstein, General Partner, Salomon Brothers to Secretary, Securities and Exchange Commission, April 14, 1975; letter

In addition, it is argued that the existence of the current "tick" test provisions of Rule 10a–1, by preventing short sellers from competing with long sellers for executions at price levels which would result in minus or zero minus ticks, imposes a burden on a competition between these different types of sellers.[91]

On the other hand, there remains strong support for maintaining the existing short sale provisions.[92] It is argued that the short sale rule remains an appropriate regulatory response to perceived abuses in the market place, that the goals of preventing short sellers from accelerating declines in securities prices or "demoralizing" the market continue to be necessary and appropriate in the public interest and for the protection of investors, and that removal of the "tick" test provision of Rule 10a–1 will cause short term disruption in the market, increase volatility in an inappropriate manner, and have adverse impacts on both public customers placing "open" orders on exchanges and block positioning activities.

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from Donald H. Burns, , Secretary, NASD, to George Fitzsimmons, Secretary, Securities and Exchange Commission, May 19, 1975; letter from G. Robert Ackerman, President, Pacific Stock Exchange, Inc., to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, August 11, 1975; letter from Kenneith I. Rosenblum, Vice President and Counsel, Midwest Stock Exchange, Inc., to Ray Garrett, Jr., Chairman, Securities and Exchange Commission, June 4, 1975. All of these letters are contained in Commission File No. S7–515.

At a short sale regulation conference with the various self-regulatory organizations, the Midwest and Pacific Stock Exchanges restated their support for elimination of short sale regulation, but proposed, as an interim step, elimination of short sale regulation only for public short sales (*e.g.*, short sales effected by persons who are not market professionals).

[91] The burden on competition which proponents of deregulation assert results from short sale regulation generally is to be contrasted with the burdens on competition which result from the fact that the "tick" test provisions of the short sale rules currently in effect do not operate uniformly in all market centers and with respect to all categories of market professionals. *See* discussion at pp. 14–15 *supra*. These latter burdens have to date been found by the Commission to be necessary or appropriate in furtherance of the purposes of the Act. Securities Exchange Act Release No. 11468 (June 12, 1975) at 3, 40 FR 25443 (1975).

[92] *See* letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, August 8, 1975. The NYSE stated:

"We do not consider the elimination of all short sale prohibitions to be a feasible approach to market regulation. Apart from the vastly increased potential for manipulation if all short sale restrictions were eliminated, the public interest is best served when successive bids at lower prices are restricted to those persons who actually own the stock involved and have a real economic stake in it. Otherwise, the value of the public stockholders' portfolios would be adversely affected by short sales at successively lower prices effected by persons who do not own the stock and who would stand to benefit if the price of the stock were to decline." *Id.* at 2.

1. *Manipulative and "demoralizing" activity.* It is well documented that short selling has been employed in connection with manipulative activity. In addition to "bear raiding," or concerted action to depress the price of securities through short selling,[93] short selling was one of a number of practices which were employed in connection with the manipulative pools which operated during the period prior to the passage of the Act.[94]

Historically, defenders of short selling have distinguished between short selling in general, which was described as "a necessary feature of an open market for securities,"[95] and "bear raiding," which was claimed to result in "illegal demoralization of the market and (the creation of) fictitious prices."[96] In a 1931 speech in defense of the practice of short selling, Richard Whitney, then President of the NYSE, expressed the difference between legitimate and illegitimate short selling as follows:

> For a great many years, the short sale has been a regular feature, not only of the leading security markets in the world, but also of practically all branches of business. Competent and impartial economic students both here and abroad have long declared that short selling, by restraining inflation and cushioning sharp declines, tends to stabilize the fluctuations of prices.
>
> * * * Short selling is also regularly employed as a "hedge," not at all for the purpose of making speculative profits, but for ensuring against losses due to price fluctuations.
>
> * * * Any halt or hindrance of short selling would have the effect of driving from the stock market the most important sources of buying power, and it could only lead to an excess of sellers and further declines in prices.
>
> * * * * *
>
> [However, n]obody can discuss the question of short selling without also considering the practice which is commonly described as "bear raiding." In the public mind the two are often linked together and the evils of "bear raiding" are attributed to short selling. If a person sells stock, not because he believes the stock is too high, but because he believes that by selling quickly and in great volume he can force the price to decline, he is abusing the legitimate practice of short selling. Contrary to what many people believe, the [NYSE] has always opposed "bear raiding."[97]

As the above excerpt indicates, concern over the manipulative or "demoralizing" use of short selling predates both the Commission's short sale rule and the passage of the Act. That concern was shared by the Congress and was embodied in the Act through the grant to the Commission of regulatory authority with respect to short selling. The House Committee on Interstate and Foreign Commerce, in reporting out the bill which contained the regulatory approach to short sales ultimately adopted by the Congress in Section 10(a) of the Act, stated that

> [t]here is plenty of room for legitimate speculation in the balancing of investment demand and supply, in the shrewd prognostication of future trends and economic directions; but the accentuation of temporary fluctuations and the deliberate introduction of a mob psychology into the speculative markets by the fanfare of organized manipulation menace the true functioning of the exchanges, upon which the economic well-being of the whole country depends.[98]

Although manipulative or "demoralizing" short sale activity has for many decades been viewed as conduct inimical to the public interest, the question still remained as to the most appropriate manner of eliminating or substantially reducing the incidence of such conduct. Long before the market "crash" of 1929, the NYSE had enacted a constitutional provision prohibiting a member from selling securities for the purpose of "demoralizing" the market.[99] The provision,

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[93] See Leffler and Farwell, supra note 21, at 449–51; Short Seling of Securities, Hearings on H.R. 4, H.R. 4604, H.R. 4638 and H.R. 4639 Before the House Comm. on the Judiciary, 72d Cong., 1st Sess. 14–15 (1932) ("Short Selling Hearings"). The Twentieth Century Fund Study released in 1951 described the typical "bear raid" as follows:

Some speculative operator or group of operators would get information that an individual, or a group of individuals was carrying a large block of a particular stock with borrowed funds, and that the price of that stock had declined so much since purchase that the creditor was asking or on the verge of asking for additional cash or securities, and that it was doubtful whether the owner could supply much more of either. The "raider" would then proceed to sell this stock short—hoping thereby to push the price down further, even if only temporarily, to a point at which some of the hypothecated stock would have to be sold. And he hoped that if this occurred, such selling would itself drive the price down still further, giving the raider an opportunity to cover his short position at a profit.

Twentieth Century Fund Study, supra note 19, at vi–vii.

[94] See Leffler and Farwell, supra note 21, at 456; Security Markets Study, supra note 24, at 449, 488; Stock Exchange Practice Hearings, supra note 18, at 983–84; Stock Exchange Practice Hearings—73d Congress; supra note 24, at 991–92, 1053–69, 1071–76, 1077–85; F. Cormier, Wall Street's Shady Side 3 (1962).

[95] S. Rep. No. 1455, supra note 2, at 50.

[96] Id. at 52; see Stock Exchange Practice Hearings, supra note 18, at 43, 362–65, 729; Stock Exchange Practice Hearings—73d Congress, supra note 24, at 158, 217–18, 262–63, 1207–08.

[97] Address by Richard Whitney, President, New York Stock Exchange, Before the Hartford Chamber of Commerce, October 16, 1931 ("Whitney Speech"), in Stock Exchange Practice Hearings, supra note 18, at 187, 188–89, 192.

[98] H.R. Rep. No. 1383, Report to Accompany H.R. 9323, 73d Cong., 2d Sess. 11 (1934).

[99] Meeker, supra note 17, at 121–22; Security Markets Study, supra note 24, at 43, 159; Whitney Speech, supra note 97, in Stock Exchange Practice Hearings at 192. That provi-

however, was vague, allegedly indefinite in application, and apparently did nothing to curb the abuses which occurred during the pre-depression and depression period.[100]

In 1931, the NYSE adopted a rule requiring its members to mark all sell orders as either "short" or "long."[101] The purpose of this rule was to enable the NYSE to detect the source and amount of short selling;[102] the rule did not on its face interfere with the right of any exchange member to sell short. Although the NYSE's 1931 marking rule did not actually restrict short selling, it became a practice of brokers not to permit short sales to take place at a price lower than that of the prior sale; any such sale was considered to "demoralize the market."[103] Thus, the NYSE, through interpretation of its marking rule, established the concept of an objective "tick" test as the basis for determining whether a short sale effected on that exchange was "demoralizing" and therefore inconsistent with the public interest.

That concept was continued by the Commission following the passage of the Act. The exchange rules regulating short selling adopted in 1935 pursuant to Commission request merely codfied the pre-existing interpretation of the NYSE's rules—that no short sale of a security should be effected at a price below the last price.[104] Although the Commission's own rule on short selling adopted in 1938 and amended in 1939 was more restrictive than the original exchange rules in terms of the price at which a short sale could legally be effected,[105] the concept of using a "tick" test for differentiating between "legitimate" short selling and "demoralizing" short selling remained.

It may be argued that the alteration of short sale regulation represented by proposed temporary Rule 10a-3(T)—namely, elimination of the "tick" test—could result in resumption of the types of abuses present during the period prior to the passage of the Act. It appears, however, that certain of the major manipulative practices intended to be remedied by short sale regulation of the type currently in effect no longer do, or could, afflict today's market in the same manner they did in the period prior to the adoption of the existing market regulatory framework. For example, the Commission believes that, as a result of the improved reporting of transactions in exchange-traded securities (resulting from implementation of the consolidated system) and the development of more sophisticated techniques for market surveillance by the Commission and the various self-regulatory organizations, practices like the traditional "bear raid" are now much more difficult to engage in, since any attempt at such an effort under today's market and regulatory conditions is likely to be detected and stopped.[106]

Furthermore, even if the Commission determines to eliminate the existing "tick" test provisions of the current short sale rules, short sales would continue to be subject to the remaining provisions of the short sale rules, including the marking requirements, as well as the anti-fraud and anti-manipulative provisions of the federal securities laws and rules and regulations thereunder. For example, section 9(a) of the Act (15 U.S.C. 78i(a)) prohibits the use of the mails or any means or instrumentality of interstate commerce, or of any facility of any national securities exchange

> [t]o effect, alone or with one or more persons, a series of transactions in any security registered on a national securities exchange * * * raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.[107]

Thus, engaging in "bear raids" or other manipulative activity in connection with short selling would continue to be unlawful.[108]

2. *Acceleration of Declines; Increased Volatility.* Those favoring maintenance of the existing restrictions on short selling also argue that one of the purposes of existing short sale regulation is to "prevent short sellers from accelerating a declining market * * *,"[109] and that, in the absence of the "tick" test provisions, which allegedly lend an upward bias to the market, future market declines will be accelerated or prolonged. In support of this argument, those favoring retention of the existing regulatory pattern point to the conclusions of the Special Study that short sales, during the market break of May, 1962, contributed to the downward movement of stocks, and that "the aggravating influence of

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sion, Article XVII, Section 4 of the NYSE Constitution, read as follows:

> Purchases or sales of securities or offers to purchase or sell securities, made for the purpose of upsetting the equilibrium of the market and bringing about a condition of demoralization in which prices will not fairly reflect market values, are forbidden, and any member who makes or assists in making any such purchases or sales or offers to purchase or sell with knowledge of the purpose thereof, or who, with such knowledge, shall be a party to or assist in carrying out any plan or scheme for the making of such purchases or sales or offers to purchase or sell, shall be deemed guilty of an act inconsistent with just and equitable principles of trade.

[100] Leffler and Farwell, supra note 21, at 232.

[101] Meeker, supra note 17, at 147, 267; Security Markets Study, supra note 24, at 395; Stock Exchange Practice Hearings, supra note 18, at 160; Whitney Speech, supra note 97, in Stock Exchange Practice Hearings at 193. The rule, adopted October 5, 1931, in the form of a circular from the NYSE's Business Conduct Committee, required that "before executing any selling orders members shall ascertain and notify their floor brokers whether such orders are for long or short account." Meeker at 267.

[102] Whitney Speech, in Stock Exchange Practice Hearings at 193; Security Markets Study, supra note 24, at 396; Short Selling Hearings, supra note 93, at 103.

[103] Leffler and Farwell, supra note 21, at 232; Meeker, supra note 17, at 147; Security Markets Study, supra note 24, at 396; Stock Exchange Practice Hearings, supra note 18, at 41, 146, 218–19, 272, 364–65; Short Selling Hearings, supra note 93, at 103; 2 Special Study 251.

[104] 2 Special Study 251; Leffler and Farwell, supra note 21, at 232–33.

[105] As indicated previously, the Commission, after its examination of short selling during the market decline of 1937, determined that the exchange rules adopted in 1935 "[had] not proven effective." Securities Exchange Act Release No. 1548 (Jan. 24, 1938) at 1, 3 FR 213 (1938). As a result, the Commission adopted its own rule prohibiting a short sale on an exchange of any security "*at or* below the price at which the last sale thereof, regular way, was effected on such exchange." Rule 10a-1(a), as adopted January 24, 1938 (emphasis added).

The result of this formulation of the "tick" test was, as one observer noted, "the short interest dropped sharply and short selling (in round lots) was almost wiped out." Leffler and Farwell, supra note 21, at 233. See 2 Special Study 252. After discussions with the NYSE, the Commission, as indicated previously, modified its "tick" test to permit short sales on a zero minus tick (a middle ground between the approach of the 1935 exchange rules and the initial Commission formulation). Securities Exchange Act Release No. 2039 (March 10, 1939), 4 FR 1209 (1939). See 2 Special Study 252; note 2 supra.

[106] See Securities Exchange Act Release No. 12384 (April 28, 1976) at 2, 41 FR 19230 (1976); letter from J. J. O'Donohue, Vice President, Market Surveillance, NYSE, to Andrew M. Klein, Assistant Director, Division of Market Regulation, December 11, 1974, at 3, in Commission File No. S7-515.

[107] Section 9(a)(2), of the Act (15 U.S.C. 78i(a)(2)). See also Sections 10(b) and 15(c)(1) under the Act (15 U.S.C. 78j(b), 78o(c)(1)), and Rules 10b-5 and 15cl-2 thereunder (17 CFR §§ 240.10b-5, 240.15cl1-2). A person, or group of persons, who engage in short sales of a security which have the effect of depressing the price of that security may be deemed to have the purpose of inducing the purchase or sale of that security by others. Cf. In the Matter of The Federal Corporation, 25 SEC 227, 230 (1947); In the Matter of Halsey, Stuart & Co., Inc., 30 SEC 106, 123–24 (1949). See Securities Exchange Act Release No. 2056 (October 27, 1941).

[108] Notwithstanding the above factors, it is argued that elimination of the "tick" test provisions will increase the likilhood of manipulative conduct. Although proponents of this argument apparently concede that the likilhood of large scale manipulations is minimal, it is argued that eliminating existing restrictions on short selling will increase the likilhood of manipulative activity designed to achieve relatively small price movements in stocks—particularly those which are underlying securities for exchange-traded options. Such narrow range manipulaitve activity, it is further argued, is extremely difficult to detect or prevent even through the use of sophisticated surveillance techniques available today. While the Commission is currently of the view that the threat of manipulative conduct of this nature due to removal of the "tick" test provisions is minimal, the Commission is particularly interested in the views of commentators as to the likelihood of this type of narrow-range manipulative activity and, if commentators believe such activity presents a significant threat, the need to maintain existing prophylactic measures to guard against this threat (compared to other regulatory alternatives available to the Commission).

[109] Securities Exchange Act Release No. 11468 (June 12, 1975) at 3, 40 FR 25443 (1975). *See* 2 Special Study 251.

short sales" occurred even with the existing regulatory structure in place.[110] Elimination of the existing restrictions, it is argued, may very well further aggravate the impact of short sales during periods when stocks are subject to intense selling pressure.

It is also argued that removal of the "tick" test restrictions will result in increased volatility (particularly in the short run). It is argued that this increased short term price volatility will, over time, impair the capital raising process by reducing public confidence in the pricing mechanisms of secondary markets in equity securities, causing investors to seek alternative investment vehicles.

On the other hand, proponents of short sale deregulation do not view either more rapid short term declines in stock prices or increased volatility (should such phenomena occur as a result of implementation of the deregulation proposal) as harmful either to investors or to the efficient functioning of the capital markets. Proponents of deregulation argue that short selling has no long term effect on price levels—either for individual stocks or for the market in general.[111] As a result, if securities prices decline more rapidly in the presence of short selling than they would in its absence, or become generally more volatile in the short term, that merely means that ultimate equilibrium prices—which would not change even if short selling were not present—are being reached more rapidly than would otherwise be the case and that the efficiency of the market is being improved. Thus, the proponents conclude, the Commission's short sale rules, which are based in part on preventing short sellers from accelerating or causing major declines in stock prices, promote market inefficiencies not in the public interest and should be eliminated.[112]

The Act makes clear that there is an important public interest in the effects of rapid price fluctuations on the securities markets and on the economy in general. The act sets forth, in its enumeration of the factors underlying the adoption of the federal market regulatory scheme, a Congressional finding that

[n]ational emergencies, which produce widespread unemployment and the dislocation of trade, transportation, and industry, and which burden interstate commerce and adversely affect the general welfare, are precipitated, intensified and prolonged by manipulation *and sudden and unreasonable fluctuations of security prices* and by excessive speculation on * * * exchanges and [the over-the-counter] markets * * *[113]

However, in determining the appropriate manner of responding to this interest, it is important for the Commission to evaluate whether (i) unregulated short selling will result in "sudden and unreasonable" price fluctuations, particularly in light of arguments that whatever changes in short term price fluctuations which may result from adoption of the deregulation proposal would contribute to market efficiency, and (ii) if increased price fluctuations and volatility which might result from elimination of the "tick" test provisions are determined to be "unreasonable," continuation of the "tick" test provisions satisfactorily responds to these "unreasonable" price fluctuations, particularly in light of the concerns expressed by the Special Study with respect to the effectiveness of such a test during the May, 1962, market decline.

3. *Impact on Public Investors and Block Positioning Activities.* In the course of the Commission's recent review of short sale regulation and consideration of the appropriateness of retaining the existing regulatory framework, the Commission and its staff have considered the general impact of removal of the "tick" test provisions on investors and on the functioning of the securities markets. It has been argued that implementation of a deregulation proposal will have several adverse short terms effects, particularly on (i) public customers placing "open" orders on exchanges, and (ii) block positioning activities.

a. *"Open" Orders".* The Commission is aware that a number of securities traders and other markets professionals believe that, although removal of the "tick" test requirements contained in the existing short sale rule would be of benefit to them by making it easier for them to sell short, such action could have adverse effects on public investors. One example universally cited as an area of potential difficulty is the effect of deregulation on "open" orders (limit orders entered as "good until cancelled") to purchase stocks on national securities exchanges, particularly in the event of adverse information concerning a particular company of the general economy. These orders, it is asserted, would be "picked off" by short sellers with such speed that they could not be protected.

Upon the announcement of "bad news," it is argued, the expectation is that the stock of the particular company involved will decline—at least temporarily. According to this argument, such a decline might well be accelerated by short sellers who would be attracted by the adverse publicity and who, under present circumstances, are precluded from leading declines by virtue of the need to comply with the "tick" test provisions of the short sale rules. The presence of short sellers, according to this view, would have little impact on other market professionals, since they would immediately be aware of the adverse news and the presence of such sellers and could pull their bids until trading in the particular security stabilized. Public investors on the other hand, who would not be on the floor and could not be aware of developments in the stock as rapidly, would not have time to cancel their "open" buy orders on the specialists' books and would end up purchasing the stock at "artificially" high levels.

b. *Block Positioning.* Under present conditions, it is asserted, market professionals are easily able to discern from the consolidated transaction reporting system and from private communications networks when large blocks of securities are being positioned, as well as which firm has engaged in the positioning activities. Some block positioners are fearful that, in an environment of unrestricted short selling, other market professionals will engage in "mini bear raids" whenever they position stock, attempting to force the block positioners to liquidate their positions at artificially depressed prices. This activity, in the view of block positioners, will increase the risks associated with block positioning and will reduce the incentives of those firms currently handling blocks to continue to do so.

In considering the theories and arguments discussed above, the Commission must weigh the competitive impact of the existing regulatory framework and must balance any burden on competition, if any, imposed by that framework against the other regulatory purposes of the Act.[114] In commenting on the de-

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[110] 2 Special Study 285–86, 288–89, 292; 4 Special Study 861.

[111] *See* discussion *supra* at pp. 21–22, 26.

[112] It should also be noted that, should the Commission ultimately determine to eliminate the "tick" test provisions of the existing short sale rules, the proponents of this "efficient markets" theory can not presently conceive of any observable market phenomenon which would cause them to alter their view that short sale regulation is inappropriate and that competition among entrants in the market is the most appropriate manner of ensuring an efficient market structure

[113] Section 2(4) of the Act [15 U.S.C. 78b (4)] (emphasis added).

[114] Section 23(a) of the Act, as amended by the Securities Acts Amendments of 1975 (the "1975 Amendments"), requires the Commission, in making rules and regulations under the Act, to "consider among other matters the impact any such rule or regulation would have on competition." Section 23(a)(2) of the Act [15 U.S.C. 78w(a)(2)]. That section further states that [t]he Commission shall not adopt any rule or regulation which would impose a burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].

Id.

The legislative history of the 1975 Amendments, however, makes clear that this explicit obligation to balance the competitive implications of proposed Commission regulatory action against the other purposes of the Act should not be viewed as requiring the Commission to justify that [its rules and regulations] be the least anti-competitive manner of achieving a regulatory objective.

S. Rep. No. 94–75, Report to Accompany S. 249, 94th Cong., 1st Sess. 13 (1975). Moreover, Congress did not intend that [c]ompetition would ... become paramount to the great purposes of the Exchange Act, but [rather that] the need for and effectiveness of regulatory actions in achieving those purposes . . . be weighed against any detrimental impact on competition.

Id. at 14.

regulation proposal published herein, commentators should therefore address themselves not only to the merits of the particular arguments advanced in favor of and in opposition to deregulation of short selling, but also to the appropriate weight which they believe should be given to these arguments in balancing the alleged anticompetitive impacts of short sale regulation against the other regulatory purposes of the Act.

II. OBJECTIVES OF PROPOSED SUSPENSION

The Commission's proposed program for temporary deregulation with respect to short selling (if adopted) is designed to enable the Commission and its staff to study, over a reasonable period, the functioning of the exchange markets in an atmosphere permitting unlimited short selling by both market professionals and public investors (except for short selling activity engaged in for manipulative purposes) in order to attempt to reach conclusions (to the extent such conclusions can be reached through empirical analysis or otherwise) concerning a number of issues relating to the impact of short selling on the equity markets and to the need, if any, to continue prophylactic short sale regulation. Thus, should the Commission adopt one of the alternative short sale deregulation proposals discussed herein (or some variation thereof), the Commission and its staff intend to collect data, views and arguments both before and during suspension of the "tick" test provisions designed to facilitate examination of, among others, the following issues:

(i) the manner in which the pricing mechanism for securities is affected in rising and declining markets by the relative ease or difficulty of effecting short sales;

(ii) the impact of elimination of the "tick" test provisions of the short sale rule on market volatility and liquidity;

(iii) the impact of existing margin requirements on both buyers and sellers (including long sellers who have purchased securities on margin and short sellers) in terms of the pricing mechanism for securities;

(iv) the circumstances, if any, under which short sellers may be compelled to effect, or choose to effect covering purchases of stock sold short in a declining market (*e.g.*, whether, in a declining market, a short seller is ever compelled by the person who has loaned that seller securities to deliver against his short sales to repay those securities, and the extent to which, when such payment is required, repayment is effected with securities borrowed from another source rather than with securities purchased in the market), the means by which such covering purchases are or may be compelled, and whether any such requirements should be imposed as a regulatory matter; and

(v) the extent to which the present scheme of short sale regulation fails to achieve its objectives (including the objective of preventing short sellers from exhausting support at a given price level in a generally declining market, thus forcing long sellers to a lower level in order to effect their sales) because of the lack of a requirement that short sellers must yield priority to long sellers at any given price level, and whether such a requirement would be appropriate (on the basis, for example, that short sellers must yield priority to long sellers at any given price level, and whether such a requirement would be appropriate (on the basis, for example, that short selling is justified only to the extent needed to supply liquidity and that it is intrinsically unfair, or, alternatively, against public policy, to subject an investor who is attempting to liquidate a long position, representing an investment in an enterprise held at market risk, to compete with a seller who has neither invested nor intends to do so, who is not currently exposed to the risks of the market, and who wishes merely to "gamble" that the market for the security he seeks to sell short will decline by establishing a short will decline by establishing a short position).

In addition to the impact of short selling on the equity markets, the proposed deregulation program, if adopted, is also designed to ascertain the effects, if any, that elimination of the short sale rules may have on trading markets in put and call options. In this connection, the Commission intends to consider (and hereby solicits comments on) the extent to which investors and market professionals utilize various options strategies (i) as risk-limiting devices in connection with short selling [15] or (ii) as an alternative to short selling.[16] The Commission is particularly interested in receiving views with respect to the manner in which such strategies may affect either the options markets or the markets for securities underlying options, and suggestions as to methods by which any manipulative possibilities could be prevented by Commission rulemaking. Moreover, the Commission wishes interested persons to consider, in commenting on the proposed rules discussed herein, the effect of Commission approval of a pilot program in exchange puts trading (should such approval be forthcoming) on the desirability or timing of a deregulation experiment with respect to short sales.

Finally, in addition to comments with respect to the issues discussed above relating to the impact of short selling on the equity and options markets, the Commission is also interested in receiving the views of interested persons as to whether reporting and monitoring efforts will be valuable in evaluating these issues, and, if so, what specific reporting and monitoring activities should be undertaken to acquire a statistically sufficient evidentiary base on which to evaluate each of those issues.

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[15] For example, investors creating substantial short positions may elect to hedge their short sales by purchasing calls covering an equivalent amount of securities. By establishing a pre-determined exercise price, the purchase of the call options enables the short seller to avoid the potentially unlimited up-side risk inherent in covering the short sale in the event of an unexpected rise in the market price of the underlying securities. Conversely, a short seller may elect to hedge partially a short position in the underlying stock against the risk of a rising market by writing a put (with the same exercise price) against his short position. If market price of the underlying stock increases—thereby making exercise of the put unprofitable—the put will expire and the writer will continue to be at risk with respect to his short sale and will be able to offset that risk partially through his premium income. If the market price of the underlying stock declines and the put is exercised, however, the writer can use the stock put to him to cover his short sale—retaining the premium as his profit (rather than the amount which could have been earned by making a covering purchase in the market at a lower price).

[16] For example, investors may elect to purchase put options as a risk limiting alternative to short selling. By purchasing a put (with the same exercise price as the price at which the underlying security would have been sold short), the investor can achieve the same gain if the price of the underlying security declines (less the premium paid) while limiting his risk to no more than the premium paid. Moreover, in contrast to the short seller, the put buyer is not subject to margin calls in the event of a price increase in the underlying security. Individuals who expect a stock to decline but who either do not anticipate that the market will decline sufficiently to justifying a short sale, or who wish to employ the greater leverage opportunities available in option transactions, may elect to write uncovered or "naked" call options. Although the objectives of uncovered writers of call options and of short sellers are substantially the same, the risks borne by them differ in significant ways. For example, (i) while the short seller must (at some future point in time) cover by effecting a closing purchase of options equal to the number previously written; and (ii) since most options (i.e., approximately 90 percent) expire unexercised, and because, even when options are exercised, the exercise is allocated among option writers on a random basis by the Options Clearing Corporation, the uncovered writer may never be required to cover his position, whereas the short seller always must eventually make a covering purchase. In addition, while the short seller is required to meet initial margin requirements currently equal to 50 percent of the value of the underlying securities (subject to maintenance adjustments by the particular broker involved), the uncovered writer need only meet initial margin requirements currently equal to 30 percent of the value of the underlying securities covered by the option (subject to certain adjustments).

Finally, in contrast to the short seller whose profits depend upon the degree to which the market price of the underlying security declines following the short sale, the uncovered call writer's profit is limited to the amount of the premium. However, the uncovered writer may preserve his profit even in the absence of a market decline to the extent that the market price for the underlying securities does not exceed the option exercise price plus the option premium and related transaction costs.

III. RULES 10a-3(T) AND 10b-11

In order to provide a framework for discussion of the issues relating to the possible deregulation of short selling, the Commission is proposing temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C]. The alternative formulations represented by these proposed rules are designed to present a wide range of alternatives with respect to the scope of a deregulation experiment.

Proposed Rule 10a-3(T)[A] would provide that, subject to the provisions of proposed Rule 10b-21 (17 CFR § 240.-10b-21) (with respect to short sales prior to and during certain underwritten offerings), short sales of securities which are registered, or admitted to unlisted trading privileges, on a national securities exchange may be effected without regard to the provisions of paragraphs (a) or (b) of Rules 10a-1, or of any exchange rule adopted in accordance with paragraph (a)(2) of Rule 10a-1, on and after January 1, 1978. Rule 10a-3(T)[A] would thus suspend the operation of the short sale rule for all exchange-traded securities.

Rules 10a-3(T)[B] and 10a-3(T)[C] are modeled on proposed Rule 10a-3(T)[A] but are more limited in scope. Rule 10a-3(T)[B] would suspend the operation of the "tick" test only for equity securities (other than warrants, rights or options) which are registered, or admitted to unlisted trading privileges, on more than one national securities exchanges and as to which transactions are reported in the consolidated system.[117] Rule 10a-3(T)[C] would suspend the "tick" test only for the 50 most active equity securities (other than warrants, rights or options) during the 12 calendar months preceeding the effective date of the rule.[118]

Under each of the alternative formulations of proposed Rule 10a-3(T), the only provision of the short sale rule which would be affected would be the "tick" test. All other provisions of Rule 10a-1, including those requiring that all orders be market "long" or "short,"[119] and that no order be market "long" unless certain conditions are met,[120] would continue in effect.

In addition to the suspension of the "tick" test provisions contemplated by Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C], the Commission is also proposing, as part of its deregulation program, the adotpion of Rule 10b-11 under the Act (§ 240.10b-11). Proposed Rule 10b-11 would apply to short sales of all equity securities—not just short sales of exchange-traded securities—and would prohibit any person from affecting a short sale, for his own account or for the account of any other person, unless he, or the person for whose account the short sale is effected, (i) has borrowed the security, or has entered into an arrangement for the borrowing of the security, or (ii) has reasonable grounds to believe that he, or the person for whose account the short sale is effected, as the case may be, can borrow the security so that, in either event, he, or the person for whose account the short sale is effected, will be capable of delivering the securities on the date delivery is due. Although the Commission believes that these requirements regarding the ability of a short seller to make timely delivery may well reflect existing practice, the Commission is of the view that it is appropriate to focus attention on the necessity of compliance with delivery requirements in the context of unregulated short selling by creating a new express obligation with respect to a short seller's ability (through borrowings) to meet those requirements.

The Commission is also interested in receiving comment on formulating proposed Rule 10b-11 in such a way as to require persons effecting short sales either for their own account or for the account of others, to be prepared to demonstrate that in the event the short seller has not borrowed or entered into an arrangement to borrow the securities to be sold short prior to, or at the time the short sale is effected, the short seller or the person effecting the short sale for him has a reasonable basis for believing that the short seller will be capable of delivering the securities sold short when delivery is due. Finally, the Commission wishes to receive comment on the desirability of eliminating clause (b) of proposed Rule 10b-11, thus requiring, in all cases, that securities to deliver against a short sale be borrowed (or an agreement for such borrowing be entered into) prior to or at the time of any short sale.

The text of proposed temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] (17 CFR §§ 240.10a-3(T)[A], 240.10a 3(T)[B] and 240.10a-3(T)[C] and proposed Rule 10b-11 (§ 240.10b-11) are set forth at the end of this release.

In publishing temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] (17 CFR §§ 240.10a-3(T)[A], 240.10a-3(T)[B] and 240.10a-3(T)[C] for public comment, the Commission wishes to emphasize that the rules, as proposed, represent suggested approaches with respect to the scope and timing of an experiment in deregulation with respect to short selling. The Commission recognizes, however, that there are other alternative approaches available with respect to such an experiment, and commentators are requested, in submitting comments on the proposed rules, to consider whether or not such other alternatives would provide the Commission with a more meaningful experiment regarding the impact of removal of the current restrictions on short selling than would the approach proposed in temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C]. In addition, the Commission wishes to receive comments on certain other issues relating to the deregulation proposal, as discussed below.

a. *Scope of Suspension.* As indicated above, proposed Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] are designed to provide a wide range of possible alternatives with respect to a short sale deregulation experiment. The Commission is especially interested in receiving the views of commentators as to whether a meaningful experiment (yet one which is fair to issuers, brokers, dealers and the public) can be conducted using a smaller number of issues than that proposed in Rule 10a-3(T)[A]. Interested persons who believe the experiment could be conducted on a sample basis (as contemplated by proposed Rules 10a-3(T)[B] and [C] should specify the appropriate number of securities to be included in the sample and the manner in which such securities should be selected (e.g., on a random basis).

Commentators favoring adoption of either proposed Rule 10a-3(T)[B] or 10 a-3(T)[C] (or some variation thereof) should also address themselves to a number of concerns which the Commission has regarding use of a smaller number of issues than that proposed in Rules 10 a-3(T)[A]. First, the Commission is concerned that selection of a small sample for purposes of the deregulation experiment may not result in a representative selection, or that the results of the study may be impaired if a significant number of the sample stocks exhibit unusual deviations from historical trading patterns.

Second, there is a possibility that the results of the study may be biased by the selection process itself in that investors might behave differently with respect to those stocks included in the sample knowing that such stocks are part of a statistical study. The possibility of persons attempting to influence the results of the study in this way is, in our view, minimal, but, nevertheless, such activity remains a possibility so long as the sample selected is relatively small.

Third, the Commission notes that any selection of securities which does not include all exchange-traded securities might be viewed by those issuers selected for deregulation (and by holders of their securities) as being arbitrary and unfair, and possibly as imposing a burden on competition which is not otherwise justified by reference to the purposes of the Act.[121] Issuers selected for deregulation may argue that eliminating short sale regulation with respect to their securities may result in increased volatility for their securities (since there would no longer be any rules slowing market de-

[117] The Commission estimates that adoption of Rule 10a-3(T)[B] would involve suspension of the "tick" test for approximately 900 equity issues.

[118] Determination of the 50 securities which would be the subject of the experiment would be made be reference to aggregate volume reported in the consolidated system over the 12 month period.

[119] Rule 10a-1(c) (17 CFR 240.10a-1(c)).

[120] Rule 10a-1(d) (17 CFR 240.10a-1(d)).

[121] See note 114 supra.

clines in those issues by discouraging short sale activity), and that this increased volatility would, in turn, lead to inferior secondary market for those securities and make it more difficult for the issuers whose securities are selected for deregulation to raise equity capital in the future. The Commission, of course, expresses no view at this time with respect to the merits of these arguments, but nevertheless notes that such arguments may be raised and requests interested persons to comment regarding those arguments as well as any other possible impacts on issuers which might result from adoption of any of the alternative proposed temporary rules.

b. *Termination Date.* Temporary Rules 10a–3(T)(A), 10a–3(T)(B) and 10a–3(T)(C), as proposed, would contain no termination date, and therefore would remain in effect indefinitely. The Commission is currently of the view that the suspension of the short sale rule contemplated by proposed Rules 10a–3(T)(A), 10a–3(T)(B) and 10a–3(T)(C), regardless of its scope, should remain in effect for a sufficient time to gather the data necessary to reach conclusions on the various issues discussed herein. The Commission considers it difficult, if not impossible, to predict with certainty in advance how long that task might take to accomplish. For example, it may be desirable for purposes of the study to consider the pattern of short sales in both advancing and declining markets, since a study of short selling in an advancing market may not provide any insight as to the pattern of short selling which might prevail in a declining market environment. Since there is no reliable way of predicting when advancing or declining market conditions may occur, it may be necessary to continue the experiment on a relatively long term basis to evaluate short selling under all market conditions.

On the other hand, a study conducted in today's market may yield sufficient data to permit the Commission to conclude the experiment after a relatively short length of time (*e.g.*, six to nine months). The Commission, therefore, is particularly interested in the views of interested persons with respect to (i) whether the Commission should establish a firm termination date for the deregulation experiment, (ii) if so, what time period should be selected, and (iii) whether long term trends in the market (up or down) are important in determining the appropriate length of time for the experiment.

c. *Other Issues Related to Proposed Deregulation Experiment.* In addition to comments on the proposed rules and the policy issues discussed earlier, the Commission also wishes to receive the views of interested persons on the following issues relating to the scope of the Commission's deregulation proposals:

(i) Whether, and in what manner, should short sales, and perhaps covering purchases, be disclosed as such on a current basis (in the consolidated system or otherwise);

(ii) If short sales should be disclosed as such on a current basis, whether any class of persons should be exempted from or treated differently under such a requirement (*e.g.*, registered exchange specialists, market makers, "block positioners");

(iii) Whether, and in what manner, the aggregate short position in any security should be disclosed; [122]

(iv) Whether, and under what circumstances, the Commission should exercise its authority either (A) to reimpose the "tick" test requirements, or (B) prohibit short selling (either by all persons or by non-professionals or by all persons other than those performing market making functions), in all stocks or in a particular stock; [123]

(v) Whether suspension of short sale regulation should be limited to public short sales (*i.e.*, short sales effected by, or for the account of, a person other than a broker or dealer); and

(vi) Whether suspension of short sale regulation should be limited to situations in which the market for the security proposed to be sold short is advancing (*i.e.*, the last sale price as reported in the consolidated system is above the closing price for the previous day as reported in the consolidated system).

IV. Request for Comment

The Securities and Exchange Commission hereby proposes Rules 10a–3(T)[A], 10a–3(T)[B] and 10a–3(T)[C] (17 CFR §§ 240.10a–3(T)[A], 240.10a–3(T)[B] and 240.10a–3(T)[C] and 10b–11 (§ 240.10b–11) pursuant to its authority under the Securities and Exchange Act of 1934 (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975). Rules 10a–3(T)[A], 10a–3(T)[B] and 10a–3(T)[C] are proposed pursuant to Sections 2, 3, 6, 9, 10, 11, 11A, 15, 17 and 23 of the Act (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78k, 78k–1, 78o, 78q and 78w), and Rule 10b–11 is proposed pursuant to Sections 2, 3, 10 and 23 of the Act (15 U.S.C. 78b, 78c, 78j and 78w). The texts of the proposed rules are as follows:

§ 240.10a–3(T)[A] Short sales of listed securities.

Subject to the Provisions of § 240.10b–21 (Rule 10b–21 under the Act), short sales of securities which are registered, or admitted to unlisted trading privileges, on a national securities exchange may be effected without regard to the provisions of paragraphs (a) or (b) of § 240.10a–1 (Rule 10a–1 under the Act), or of any exchange rule adopted in accordance with paragraph (a)(2) of § 240.10a–1, on and after January 1, 1978.

§ 240.10a–3(T)[B] Short sales of listed securities.

Subject to the provisions of § 240.10b–21 (Rule 10b–21 under the Act), short sales of equity securities (other than warrants, rights or options) registered, or admitted to unlisted trading privileges, on more than one national securities exchange and with respect to which transactions are reported in the consolidated transaction reporting system contemplated by § 240.17a–15 (Rule 17a–15 under the Act), may be effected without regard to the provisions of paragraph (a) of § 240.10a–1 (Rule 10a–1 under the Act), or of any exchange rule adopted in accordance with paragraph (a)(2) of § 240.10a–1, on and after January 1, 1978.

§ 240.10a–3(T)[C] Short sales of listed securities.

Subject to the provisions of § 240.10b–21 (Rule 10b–21 under the Act), short sales of the 50 equity securities (other than warrants, rights or options) which accounted for the highest aggregate volume reported in the consolidated transaction reporting system contemplated by § 240.17a–15 (Rule 17a–15 under the Act) (the "consolidated system") during the 12 calendar months preceding the effective date of this section, may be effected without regard to the provisions of paragraph (a) of § 240.10a–1 (Rule 10a–1 under the Act), or of any exchange rule adopted in accordance with paragraph (a)(2) of § 240.10a–1, on and after January 1, 1978.

(Secs. 2, 3, 6, 11, 15, 17, 23, Pub. L. 78–291, 48 Stat. 881, 882, 885, 891, 895, 897, 901, as amended by secs. 2, 3, 4, 6, 11, 14, 18, Pub. L. 94–29, 89 Stat. 97, 97, 104, 110, 121, 137, 155 (15 U.S.C. 78b, 78c, 78f, 78k, 78o, 78q, 78w, as amended by Pub. L. 94–29 (June 4, 1975)); secs. 9, 10, Pub. L. 78–291, 48 Stat. 889, 891 (15 U.S.C. 78i, 78j); sec. 7, Pub. L. 94–29, 89 Stat. 111 (15 U.S.C. 78k–1))

§ 240.10b–11 Requirement of borrowing in connection with short sales.

It shall constitute a "manipulative or deceptive device or contrivance," as that term is used in Section 10(b) of the Act, for any person to effect a short sale of any equity security, for his own account or for the account of any other person, unless he, or the person for whose account the short sale is effected, (a) has borrowed the security, or has entered into an arrangement for the borrowing of the security, or (b) has reasonable grounds to believe that he, or the person for whose account the short sale is effected, as the case may be, can borrow the security, so that, in either event, he or the person for whose account the short sale is effected, will be capable of delivering the security on the date delivery is due.

(Secs. 2, 3, 23, Pub. L. 78–291, 48 Stat. 881, 882, 901, as amended by secs. 2, 3, 18, Pub. L. 94–

[122] For example, a possible approach would be to require disclosure of the aggregate short position in each exchange-traded security on a daily basis (following the close of trading in all market centers).

[123] As indicated previously, an emergency provision providing for the temporary banning of short selling, in all stocks or in a particular stock, upon an appropriate finding by the Commission of need for such action, was recommended by the Special Study. *See* note 75 *supra*.

29, 89 Stat. 97, 97, 155 (15 U.S.C. 78b, 78c, 78w, as amended by Pub. L. 94-29 (June 4, 1975)); sec. 10, Pub. L. 78-291, 48 Stat. 891 (15 U.S.C. 78j)

Interested persons are invited to submit written views, data and arguments with respect to proposed temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] and proposed Rule 10b-11, as well as with respect to the additional issues and inquiries discussed in this release. Persons wishing to make such submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549 not later than March 1, 1977. All submissions should refer to File No. S7-665 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 21, 1976.

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[17 CFR Part 240]

[Release No. 34-13092; File No. S7-510]

PROHIBITIONS RELATING TO PUBLIC OFFERINGS

Proposed Amendments to Short Sales and Recordkeeping Rules

The Securities and Exchange Commission announced today that it has proposed for comment an alternative version of proposed Rule 10b-21 (17 CFR § 240.10b-21), as well as amendments to paragraphs (a)(6) and (a)(7) of Rule 17a-3 (17 CFR §§ 240.17a-3(a)(6) and (a)(7)) under the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94-29 (June 4, 1975)), restricting short sales of securities prior to and during underwritten public offerings of securities for cash, and establishing certain additional recordkeeping requirements with respect to short sales. The proposed rule and amendments were first proposed in Securities Exchange Act Release No. 10636 (February 11, 1974), 39 FR 7806 (1974), and were reproposed in Securities Exchange Act Release No. 11328 (April 2, 1975), 40 FR 16090 (1975). Interested persons should refer to those releases for a discussion of the practices which the proposed rule and amendments are intended to address. After reviewing the comments received on these proposals, the Commission has determined to solicit comment on modification of their provisions in important respects. Consequently, the Commission is publishing an alternative version of proposed Rule 10b-21 and republishing the amendments to Rule 17a-3 for further comment.

PROPOSED RULE 10B-21

a. *General.* Proposed Rule 10b-21 has been revised in concept for purposes of receiving additional comments thereon and comparison with the Commission's prior proposal with respect to that Rule. The Commission is particularly interested in receiving comments comparing the desirability and efficacy of the mechanisms for regulating pre-offering short selling contemplated by Rule 10b-21 in the form last published in April, 1975, with those proposed herein.

Proposed Rule 10b-21 is designed to prevent manipulative short selling practices in connection with underwritten offerings of securities of the same class as outstanding securities. Manipulative opportunities exist in such offerings because the outstanding securities can be sold short prior to the commencement of the offering with the expectation that such selling activity will lower the price of the offered security and enable the short seller to cover at a depressed price (usually with shares which are the subject of the offering).

As published for comment in April, 1975, proposed Rule 10b-21 would operate to deter manipulative short selling prior to underwritten offerings by restricting the ability of persons to make covering purchases within certain periods and from certain persons. Thus, proposed Rule 10b-21, as published in April, 1975, would prohibit a covering purchase in connection with a short sale if the short sale was made within a ten-day period prior to the commencement of an offering covered by a registration statement or a notification on Form 1-A and if the covering purchase would be made from an underwriter or other dealer participating in the distribution. In addition, if the short sale was made within five days of the commencement of the offering, the Rule would prohibit covering purchases of securities of the same class as those covered by the registration statement or notification on Form 1-A within a five day period after the commencement of the offering or before the termination of the offering, whichever is earlier. The applicable prohibition against covering purchases would extend to a short sale of a security of the same class as the offered security and the purchase, within the specified period, of a security convertible into or exchangeable for a security of the same class as the security offered.

The alternative proposal published today would, if adopted, alter the regulatory approach contemplated by the April, 1975, proposal in important respects. Rather than prohibiting covering purchases, proposed Rule 10b-21, as published herein, would regulate short sales of securities of the same class as offered securities directly through the use of a "tick" test which would apply during the pre-offering period and continue until termination of post-offering stabilizing arrangements.[1] Thus, revised Rule 10b-21, as proposed herein, would regulate short selling after the effective date, while the prior proposal would regulate only covering purchases, and then only for a maximum of five days after commencement of the offering. Since the Commission's investigation of the unlawful practices which led to the original proposal of Rule 10b-21 did not involve short selling subsequent to the offering date, the Commission specifically invites comment on that portion of revised Rule 10b-21 which would extend the prohibitions of the Rule to the period following the offering.

For securities registered, or admitted to unlisted trading privileges, on national securities exchanges, proposed Rule 10b-21, as revised, would rely on the "tick" test provisions of the Commission's existing short sale rule, Rule 10a-1 under the Act (17 CFR § 240.10a-1), to regulate short selling prior to and during underwritten offerings. Rule 10a-1 prohibits any person from effecting a short sale of any security as to which trades are reported in the consolidated transaction reporting system contemplated by Rule 17a-15 under the Act (17 CFR § 240.17a-15) (the "consolidated system") at a price below the price of the last sale thereof (*i.e.*, on a minus tick), or at the price of the last sale thereof if the preceding different sale was effected at a higher price (i.e., on a zero minus tick), reported in the consolidated system.[2] It is possible that Rule 10a-1, by preventing short sales of exchange-traded securities at successively lower prices (and thereby limiting the potential profits of short sellers), to a large extent discourages the manipulative market tactic described above and conceivably reduces the need for further prophylactic measures.

Rule 10b-21, as republished herein, has been drafted in light of the Commission's investigation and proceeding, also announced today, to determine whether to suspend in part the operation of Rule 10a-1.[3] If some variation of proposed Temporary Rule 10a-3(T) is adopted, (particularly in the comprehensive form contemplated by version [A] of the proposal), the provisions of paragraphs (b)(1) and (c)(1) of the proposed alternative Rule 10b-21 would retain short sale regulation as presently embodied in Rule 10a-1 for securities which are the sub-

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[1] Commentators are also requested to consider whether, if the approach contemplated by the revised proposal is adopted, the length of time the prohibitions of the rule would be applicable should be limited to a maximum of five days after the commencement of the offering.

[2] With respect to exchange-traded securities as to which trades are not reported in the consolidated system, Rule 10a-1 prohibits short sales on a minus or zero minus tick determined by reference to the preceding transaction in the security to be sold short occurring on that exchange. For securities reported in the consolidated system, Rule 10a-1 also permits a national securities exchange to elect to have the permissibility of short sales determined by reference to the last sale on that exchange rather than by reference to the consolidated system.

[3] *See* Securities Exchange Act Release No. 13091 (December 21, 1976), publishing for public comment proposed temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] under the Act (17 CFR §§ 240.10a-3(T)[A], 240.10a-3(T)[B] and 240.10a(T)[C]).

ject of an underwritten offering for cash during the pre-offering and offering periods. If no variation of proposed Temporary Rule 10a–3(T) is adopted, certain changes in the proposed alternative Rule 10b–21, of course, would be made (including elimination of paragraph (c)(1) thereof).

With respect to over-the-counter securities as to which quotations are reported in the National Association of Securities Dealers Automated Quotations system ("NASDAQ"), it would appear that market depressing short sales to and during underwritten public offerings for cash can be prevented directly by prohibiting them from being effected during the pre-offering and offering periods below a price ⅛th point above the highest independent bid reflected in NASDAQ (subject to an exception for market makers and certain others analogous to those contained in Rule 10a–1). These limitations are set forth in paragraphs (b)(1) and (c)(2) of the proposed alternative Rule.[4] The objective of these restrictions would be to prevent short sellers, during the pre-offering and offering periods, from "crossing" the market to "hit" bids, thus forcing quoted prices to even lower levels. As to non-listed, non-NASDAQ securities, the Commission does not believe Rule 10b–21's protections are needed, since issuers of securities in that category rarely have recourse to public capital more than once unless listed or NASDAQ status has been achieved.

b. *Determination of regulated period.* It may be desirable that Rule 10b–21, in whatever form adopted, contain a mechanism by which investors and securities professionals may be notified in advance of the period during which the prohibitions of the Rule would come into play. Rule 10b–21 would establish such a mechanism by requiring the underwriter or managing underwriter, in the case of non-competitive offerings, or the issuer (or other person on whose behalf the offering is made), in the case of competitive offerings, to establish, in good faith, an expected offering date with respect to a proposed underwritten offering and to notify the Commission, relevant self-regulatory organizations and others of this date.[5] The Commission anticipates that those organizations (and private news services) will take steps to ensure the prompt and widespread dissemination of that information so that investors and market professionals will be aware of the expected offering date in advance of the commencement of restrictions on short selling.[6] Such restrictions would commence at the opening of business on the tenth business day preceding the expected offering date (or, in the event notice of the expected offering date precedes the expected offering date by less than ten business days, at the time persons subject to the restrictions know, or in the exercise of reasonable care should know, of such expected offering date) and continue until the close of business on the date stabilizing arrangements and trading restrictions among the underwriters of the offering are terminated.

In the event that, subsequent to providing notice of the expected offering date, the underwriter or managing underwriter, in the case of a noncompetitive offering, or the issuer (or other person on whose behalf the offering is to be made), in the case of a competitive offering, knows, or in the exercise of reasonable care, should know, that the offering will not commence on or before the expected offering date, he must provide, as promptly as practicable under the circumstances, notice of the fact that such offering is no longer expected to commence on the date specified and either (i) the revised expected offering date, (ii) the fact that such offering has been postponed indefinitely or withdrawn, or (iii) a representation that notice of a new current expected offering date will be given at a future date. If an underwriter or issuer has to revise his expected offering date and does not announce a new expected offering date, short sale restrictions will, of course, terminate, since there will no longer be in place a "current expected offering date" within the meaning of the proposed rule. Restrictions on short selling will not recommence until (and unless) a new expected offering date is selected; upon selection of a new date restrictions will recommence in accordance with the proposed alternative Rule on the tenth business day prior to the new expected offering date.

If an underwriter or issuer or other person on whose behalf an offering is being made revises the expected offering date and selects a new date as the expected offering date, whether or not restrictions on short selling terminate depends upon the new date selected as the expected offering date. If the time period between the date notice of the revised date is given and the revised date is less than ten business days from the date of such notice, short sale restrictions will not terminate and will continue in effect until the completion of the offering (*i.e.*, the date stabilization and trading restrictions are terminated). If the time period between the date notice is given and the revised expected offering date is greater than ten business days, short sale restrictions will terminate until the opening of business on the tenth business day prior to the revised expected offering date.

While this formulation of the Rule would not preclude persons interested in a distribution from establishing and re-establishing an expected offering date numerous times (with an obvious consequent impact on the market), the Commission believes that the prohibition against bad faith or baseless estimates contained in paragraph (b)(2) of the proposed alternative Rule, combined with the fact that an offering which is too frequently rescheduled is unlikely to succeed (since for example, prospective syndicate members do not wish to be precluded from normal market activities by Rule 10b–6 under the Act (17 CFR § 240.10b–6) for a lengthy or indefinite period), is sufficient to prevent abuse of the proposed alternative Rule's flexibility in this regard.

c. *Request for comment on prior approach.* In publishing the alternative version of Rule 10b–21 discussed herein, the Commission wishes to reemphasize that it is not, by so doing, abandoning the regulatory approach contemplated in the April, 1975 version of the Rule. The Commission hereby notifies all commentators that it is still actively considering, in lieu of restricting short sales by means of a "tick" test, the version of Rule 10b–21 published in April, 1975, prohibiting the covering of short sales effected during the pre-offering period with shares purchased in the offering, as well as the covering of short sales effected during the five days prior to the expected offering date with shares purchased within a five day period after the commencement of the offering or before the termination of the offering, whichever is earlier. Commentators are specifically requested to compare and contrast the version of Rule 10b–21 published herein with that published in April, 1975, to describe the probable impact of each of the two approaches on short selling prior to and during underwritten offerings, and to indicate which of the two approaches (or some combination thereof) they believe should be adopted by the Commission.

Amendments to Paragraphs (a)(6) and (a)(7) of Rule 17a–3

The proposed amendments to paragraphs (a)(6) and (a)(7) of Rule 17a–3 published for comment with proposed Rule 10b–21 in April, 1975, intended to extend the "long" and "short" marking requirements of Rule 10a–1 to over-the-counter sales, have been revised to ensure that they will not apply to sales of exempted securities or municipal securities. In addition, paragraph (a)(7) of the Rule has been revised to make clear that the marking requirements of Rule

[4] Commentators should also address themselves to the desirability of using as a reference point for permissible short sales of NASDAQ securities during the pre-offering and offering periods the representative bid displayed in Level 1 of NASDAQ rather than the highest independent bid displayed in Level 2 (as proposed herein). Persons commenting on the use of the representative bid as a reference point should attempt to assess the extent to which use of that reference point would preclude predatory or manipulative short selling prior to and during underwritten offerings (*e.g.*, cause even those bidders whose bids would be insulated from short selling (because their bids are at or below the price of the representative bid) during the period of the rule's application to reduce the price levels of their bids).

[5] Estimates of the expected offering date made otherwise than in good faith or without any reasonable basis under the circumstances would be proscribed by paragraph (b)(2) of the proposed alternative Rule.

[6] The Commission is particularly interested in receiving comments on this aspect of proposed alterative Rule 10b–21, especially from those persons who would be expected to perform the function of disseminating information as to the expected offering date, revisions and syndicate terminations (*e.g.*, as to the means by which information would be disseminated, their willingness to do so, and related matters).

17a–3 apply to sales to dealers effected by persons other than brokers or dealers (as well as to sales by dealers to such persons).

REQUEST FOR PUBLIC COMMENT

The Securities and Exchange Commission hereby proposes Rule 10b–21 and amendments to Rules 17a–3(a)(6) and 17a–3(a)(7). Rule 10b–21 would be adopted pursuant to Sections 2, 3, 9, 10, 12, 13, 15, 17, and 23 of the Securities Exchange Act of 1934 and Sections 7, 10, and 19 of the Securities Act of 1933 (15 U.S.C. 78b, 78c, 78i, 78j, 78l, 78m, 78o, 78q, 78w, 77g, 77j, and 77s). The amendments to paragraphs (a)(6) and (a)(7) of Rule 17a–3 would be adopted pursuant to Sections 17 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78q and 78w).

The texts of proposed Rule 10b–21 and of paragraphs (a)(6) and (a)(7) of Rule 17a–3, as proposed to be revised, are set forth below (Rule 10b–21 has been completely revised; changes to Rules 17a–3(a)(6) and 17a–3(a)(7) from prior versions of the proposals are indicated as follows):

(Additions are indicated by arrows ►and◄, and deletions therefrom by brackets [and]).

§ 240.10b–21 Restrictions on short sales in connection with public offerings.

(a) *Definitions.* For purposes of this section: (1) The term "short sale" shall have the meaning set forth in § 240.3b–3 (Rule 3b–3 under the Act);

(2) The term "listed security" shall mean any equity security registered, or admitted to unlisted trading privileges, on a national securities exchange;

(3) The term "NASDAQ security" shall mean any equity security (other than a listed security as to which transactions are reported in the consolidated transaction reporting system contemplated by § 240.17a–15 (Rule 17a–15 under the Act)) traded over-the-counter which meets the qualifications set forth in Schedule D of the By-Laws of the National Association of Securities Dealers, Inc. (the "NASD") for inclusion in, and which is included in, NASDAQ, the electronic interdealer quotation system owned and operated by the NASD;

(4) The term "arbitrage" shall mean: (i) a purchase or sale of a security in one market together with an offsetting sale or purchase of the same security in a different market at as nearly the same time as practicable, for the purpose of taking advantage of a current difference in prices in the two markets, or

(ii) a purchase of a security which is, without restriction other than the payment of money, exchangeable or convertible within 90 calendar days following the date of its purchase into a second security together with an offsetting sale at or about the same time of such second security for the purpose of taking advantage of a current difference in the price of the two securities;

(5) The term "qualified third market maker" shall have the meaning set forth in § 240.17a–16 (Rule 17a–16 under the Act);

(6) The term "competitive offering" shall mean an underwritten offering for cash of a class of equity securities pursuant to a registration statement filed under the Securities Act of 1933 or pursuant to a notification on Form 1–A under such Act in connection with which the issuer of the securities to be offered, or other person on whose behalf the offering is to be made, has issued a public invitation for bids to underwrite the offering;

(7) The term "noncompetitive offering" shall mean an underwritten offering for cash of a class of equity securities pursuant to a registration statement filed under the Securities Act of 1933 or pursuant to a notification on Form 1–A under such Act which is other than a competitive offering;

(8) The term "current expected offering date" shall mean (i) In the case of a noncompetitive offering, the most recently established date which the underwriter (or, in offerings involving more than one underwriter, the managing underwriter) has estimated, in good faith, will be the date on which the offering will commence; or

(ii) In the case of a competitive offering, the most recently established date which the issuer (or other person on whose behalf the offering is to be made) has estimated, in good faith, will be the date on which a bid (or bids) will be accepted;

(9) The term "subject security," when used in connection with restrictions established by this section with respect to short sales prior to or during any competitive or noncompetitive offering, shall mean any securities of the same class as those to be offered (or which are being offered) in a competitive or noncompetitive offering of listed or NASDAQ securities.

(10) The term "independent bid," when used in connection with the price at which a short sale of subject securities may be made, shall mean a firm offer to purchase subject securities made by or on behalf of a person other than (i) The person effecting or proposing to effect the short sale, or

(ii) Any person directly or indirectly controlling, controlled by or under common control with the person effecting or proposing to effect the short sale.

(11) The term "underwriter" shall mean a person who has agreed with an issuer or other person on whose behalf a competitive or noncompetitive offering of listed or NASDAQ securities is to be (or is being) made (i) to purchase securities for distribution, (ii) to distribute securities for or on behalf of such issuer or other person, or (iii) to manage or supervise a distribution of securities for or on behalf of such issuer or other person, regardless of whether the terms and conditions of the distribution have been agreed upon;

(12) The term "managing underwriter" shall mean, in the case of a competitive or noncompetitive offering involving more than one underwriter, the underwriter or underwriters designated by all of the underwriters as (or, if not so designated, serving as) the managing or a co-managing underwriter or underwriters, or as the representative or a co-representative of all of the underwriters.

(13) The term "designated persons," when used in connection with any notice required to be provided pursuant to paragraphs (e), (f) and (g) of this section, shall mean

(i) The Securities and Exchange Commission;

(ii) Each national securities exchange on which securities of the class being offered in any competitive or noncompetitive offering are (or are to be) listed or admitted to unlisted trading privileges;

(iii) Each national securities association having one or more members which act as qualified third market makers with respect to securities of the class being offered;

(iv) The Consolidated Tape Association; and

(v) The Options Price Reporting Authority (in the case of a class of securities underlying call options admitted to trading on any national securities exchange).

(b) *General prohibition.* It shall constitute a "manipulative or deceptive device or contrivance," as that term is used in section 10(b) of the Act, (1) For any person to effect for his own account or the account of any other person, directly or indirectly, any short sale of a subject security prior to or during any competitive or noncompetitive offering of listed or NASDAQ securities in contravention of the terms and conditions specified herein; or

(2) For an underwriter or managing underwriter, in the case of a noncompetitive offering of listed or NASDAQ securities, or for an issuer or other person on whose behalf an offering is to be made, in the case of a competitive offering of listed or NASDAQ securities, to announce or give notice of any date as the date on which such offering is expected to commence or on which a bid (or bids) will be accepted otherwise than in good faith or without a reasonable basis, under the circumstances, for believing that such date will be the date on which such offering will commence or on which a bid (or bids) will be accepted, or fail to provide timely notice of the current expected offering date with respect to such offering (or of any revision of that date), and of the termination of stabilizing arrangements and trading restrictions among underwriters with respect to such offering, in accordance with the terms and conditions specified herein.

(c) *Restrictions on short selling.* (1) Notwithstanding the provisions of § 240.10a–3(T) (Rule 10a–3(T) under the Act), no person who has, or in the exercise of reasonable care should have, knowledge of the current expected offering date with respect to any competitive or noncompetitive offering of listed securities shall effect for his own account or

the account of any other person, directly or indirectly, a short sale of any subject security during the period beginning at the opening of business on the tenth business day preceding the current expected offering date (or, in the event notice of the current expected offering date precedes the current expected offering date by less than ten business days, at the time such person first knows, or in the exercise of reasonable care should have known, of the current expected offering date) and ending at the close of business on the date stabilizing arrangements and trading restrictions among the underwriters of such offering are terminated, except in accordance with the provisions of § 240.10a–1 (Rule 10a–1 under the Act).

(2) No person who has, or in the exercise of reasonable care should have, knowledge of the current expected offering date with respect to any competitive or noncompetitive offering of NASDAQ securities shall effect for his own account or the account of any other person, directly or indirectly, a short sale of any subject security over-the-counter during the period beginning at the opening of business on the tenth business day preceding the current expected offering date (or, in the event notice of the current expected offering date precedes the current expected offering date by less than ten business days, at the time such person first knows, or in the exercise of reasonable care should have known, of the current expected offering date) and ending at the close of business on the date stabilizing arrangements and trading restrictions among the underwriters of such offering are terminated, below a price ⅛ point above the highest independent bid displayed in Level 2 of NASDAQ at the time of the proposed short sale.

(3) For purposes of computing the price at which a short sale of a subject security may be made under paragraph (c) (1) and (2) of this section, the price at which the short sale is effected shall be deemed to be the transaction price recorded on the trade ticket less any commission, commission equivalent or differential charged by any dealer (acting as principal) to whom the sale is made.

(d) *Exceptions.* The restrictions on short sales of subject securities imposed by this section shall not apply to (1) Any bona fide foreign or domestic arbitrage transaction;

(2) Any dealer, which is registered with a national securities exchange as a specialist or market maker in the subject securities to be sold or which is registered as an odd-lot dealer with respect to such securities, acting in that capacity;

(3) Any dealer, which is a qualified third market maker (i) which has filed a notice for the subject securities with the Commission on Form X–17A–16 (§ 249.631), or (ii) which has submitted both bid and ask quotations as to such securities in an interdealer quotation system, communications system or otherwise on ten consecutive business days preceding commencement of restrictions on short sales in accordance with paragraphs (c) (1) or (c) (2) of this section or on each of at least twelve days within the thirty calendar days prior to the commencement of restrictions on short sales in accordance with paragraphs (c) (1) or (c) (2) of this section with no more than four business days in succession without such a two-sided quotation, acting in that capacity; or

(4) Any transaction in a NASDAQ security effected during any period restrictions on short selling are in effect in accordance with paragraphs (c) (1) or (c) (2) of this section which, if effected on a national securities exchange (and if the security were a listed security), would be exempted from the operation of § 240.10a–1 (Rule 10a–1 under the Act) by virtue of paragraphs (e) (1), (e) (2) or (e) (10) of § 240.10a–1.

(e) *Notice of current expected offering date.* In connection with any competitive or noncompetitive offering of listed or NASDAQ securities (other than the initial public offering for the class of securities which is the subject of the offering), the issuer or other person on whose behalf the offering is to be made, in the case of a competitive offering, or the underwriter or managing underwriter, in the case of a noncompetitive offering, shall establish in advance of the date on which the offering is to commence, as accurately as practicable under the circumstances, a current expected offering date and shall notify all designated persons no later than the close of business on (1) the date on which such person establishes the current expected offering date, or (2) the eleventh business day prior to the current expected offering date, whichever is later, of the identity of the offering and the current expected offering date.

(f) *Notice of change in expected offering date.* In the event that, subsequent to any date on which notice is given of a current expected offering date, the person required to provide such notice knows, or in the exercise of reasonable care should know, that the offering which was the subject of such notice will not commence on or before the date specified therein, such person shall provide, as promptly as practicable under the circumstances, notice to all designated persons of (1) the identity of the offering; (2) the fact that such offering is no longer expected to commence on the date specified in such person's prior notice; and (3) the revised current expected offering date (in accordance with paragraph (e) of this section), the fact that such offering has been postponed indefinitely or withdrawn, or his representation that notice of a new current expected offering date will be given at a future date (in accordance with paragraph (e) of this section).

(g) *Notice of termination of offering.* In connection with any offering as to which notice of the current expected offering date is required to be given in accordance with paragraph (e) of this section, the person required to give such notice shall notify all designated persons no later than the close of business on the date stabilizing arrangements and trading restrictions among the underwriters of such offering are terminated of the identity of the offering and the fact that such arrangements and restrictions have been terminated.

(h) *Exemptions.* This rule shall not prohibit any transaction or transactions which the Commission, upon written request or upon its own motion, exempts, whether unconditionally or on specified terms and conditions, as not constituting a manipulative or deceptive device or contrivance comprehended by the purposes of this section.

(Secs. 2, 3, 15, 17, 23, Pub. L. 78–291, 48 Stat. 881, 882, 895, 897, 891, as amended by secs. 2, 3, 11, 14, 18, Pub. L. 94–29, 89 Stat. 97, 97, 121, 137, 155 (15 U.S.C. 78b, 78c, 78o, 78q, 78w, as amended by Pub. L. 94–29 (June 4, 1975)); secs. 9, 10, Pub. L. 78–231, 48 Stat. 889, 891 (15 U.S.C. 78i, 78j); secs. 12, 13, Pub. L. 78–291, 48 Stat. 892, 894, as amended by secs. 3, 4, Pub. L. 88–467, 78 Stat. 565, 569 (15 U.S.C. 78l, 78m); secs. 7, 10, 19, Pub. L. 73–22, 48 Stat. 78, 81, 85 (15 U.S.C. 77g, 77j, 77s).)

§ 240.17a–3 Records to be made by certain exchange members, brokers and dealers.

(a) * * *

(6) A memorandum of each brokerage order, and of any other instruction, given or received for the purpose of sale of securities, whether executed or unexecuted. Such memorandum shall show the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry, whether, if a sale ►of a security other than an exempted security or a municipal security◄, the order is entered "long" or "short," the price at which executed and, to the extent feasible, the time of execution or cancellation. An order shall not be marked "long" unless (i) the security to be delivered after sale is carried in the account for which the sale is to be effected, or (ii) the broker-dealer is informed that the seller owns the security ordered to be sold and, as soon as is possible without undue inconvenience or expense, will deliver the security owned to the account for which the sale is to be effected. Orders entered pursuant to the exercise of discretionary power by such member, broker, or dealer, or any employee thereof, shall be so designated. The term "instruction" shall be deemed to include instructions between partners and employees of a member, broker or dealer. The term "time of entry" shall be deemed to mean the time when such member, broker, or dealer transmits the order or instruction for execution or, if it is not so transmitted, the time when it is received.

(7) A memorandum of each purchase and sale of securities for the account of such member, broker or dealer showing the price and, to the extent feasible, the time of execution; and, in addition, where such purchase or sale is with a ►person◄ [customer] other than a broker or dealer, a memorandum of each order received, showing the time of receipt, the terms and conditions of the order, the account in which it was entered and whether, if a sale ►of a security other than an exempted security or a municipal security by or to such member, broker, or dealer◄, such scale was effected "long" unless (i) the security to be delivered after sale is carried in the account for which the sale is to be effected, or (ii) the broker-dealer is informed that the seller owns the security ordered to be sold and, as soon as is posible without undue inconvenience or expense, will deliver the security owned to the account for which the sale is to be effected.

(Secs. 17, 23, Pub. L. 78-291, 48 Stat. 897, 901, as amended by secs. 14, 18, Pub. L. 94-29, 89 Stat. 137 155 (15 U.S.C. 78q, 78w).)

* * * * *

All interested persons are invited to submit written views, data and arguments with respect to the above proposal and amendments. Persons wishing to make such submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, not later than February 10, 1977. All submissions should make reference to File No. S7-510, and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, NW, Washington, D.C.

By the Commission,

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 21, 1976.

[FR Doc.76-38059 Filed 12-27-76;8:45 am]

federal register

TUESDAY, DECEMBER 28, 1976

PART V

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secertary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931. as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alaska:	
AK76–5095	Sept. 24, 1976.
Colorado:	
CO76–5106	Nov. 26, 1976.
Iowa:	
IA76–4092	May 21, 1976.
IA76–4099	June 18, 1976.
IA76–4145	Sept. 10, 1976.
IA76–4175	Oct. 15, 1976.
Kentucky:	
KY76–1058	May 21, 1976.
KY76–1129	Nov. 26, 1976.
Massachusetts:	
MA76–2104; MA76–2106	Sept. 3, 1976.
MA76–2105	Sept. 20, 1976.
Mississippi:	
MS76–1084	Aug. 20, 1976.
Missouri:	
MO76–4107; MO76–4108	July 2, 1976.
Montana:	
MT76–5103	Nov. 19, 1976.
New Mexico:	
NM76–4182	Nov. 12, 1976.
Ohio:	
OH76–2041	Apr. 9, 1976.
Texas:	
TX76–4115; TX76–4118	July 16, 1976.
TX76–4126; TX76–4128	July 23, 1976.
TX76–4155; TX76–4157	Oct. 1, 1976.
TX76–4168; TX76–4169; TX 76–4170; TX76–4171.	Oct. 8, 1976.
TX76–4183	Nov. 12, 1976.
Vermont:	
VT76–2170	Dec. 10, 1976.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

California:	
CA76–5053 (CA76–5120); CA76–5059 (CA76–5121).	July 2, 1976.
Connecticut:	
CT76–2111, CT76–2112 (CT 76–2172); CT76–2111, CT 76–2112 (CT76–2173).	Sept. 17, 1976.
Florida:	
FL75–1085 (FL76–1141)	Sept. 5, 1975.
Michigan:	
MI76–2049 (MI76–2171)	Apr. 16, 1976.
Mississippi:	
MS75–1020 (MS76–1142)	Feb. 7, 1975.
Tennessee:	
TN75–1074 (TN76–1140)	Aug. 8, 1975.
Texas:	
TX76–4042 (TX76–4196)	Feb. 13, 1976.
TX76–4087 (TX76–4194)	May 21, 1976.
TX76–4110 (TX76–4197)	July 2, 1976.
TX76–4125 (TX76–4193)	July 23, 1976.
TX76–4151 (TX76–4195)	Sept. 24, 1976.
West Virginia:	
WV75–3107 (WV76–3286)	Dec. 5, 1975.
WV75–3106 (WV76–3286)	Dec. 12, 1976.
Wisconsin:	
WI75–2064 (WI76–2169)	May 16, 1975.

Change in publication date. The FEDERAL REGISTER will not be published Friday, December 31, due to Friday being a holiday. Modifications and supersedeas decisions to general wage determination decisions scheduled for publication on December 31, 1976, will be published in the FEDERAL REGISTER on January 4, 1977.

Signed at Washington, D.C., this 17th day of December 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

DECISION NO. AK76-5095 - Mod. #5 (41 FR 42060 - September 24, 1976) Statewide, Alaska	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$17.61	.44	.97		.10
Boilermakers	16.285	.775	1.00	.50	.02
Plumbers:					
Area III	15.20	1.00	1.20		.10
DECISION #CO76-5106 - Mod. #1 (41 FR 52225-November 26, 1976) Las Animas, Otero and Pueblo Counties, Colorado					
Change:					
Plumbers:					
Zone I (0-15 miles from P.O.	$10.97	.85			.08
Zone II (15-20 miles from P.O.)	11.54	.85			.08
Zone III (20-40 miles from P.O.)	11.97	.85			.08
Zone IV (Over 40 miles from P.O.)	12.995	.85			.08

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IA76-4092 - Mod. #4 (41 FR 21079 - May 21, 1976) Black Hawk County (City of Waterloo & abutting municipalities), Iowa					
Change:					
Building, Water Treatment Plants & Sewage Disposal Plants Construction:					
Electricians:					
Electricians	$10.48	.45	17		17
Cable Splicers	10.79	.45	17		17
DECISION #IA-76-4099 - Mod. #5 (41 FR 24844 - June 18, 1976) Cerro Gordo County (City of Mason City), Iowa					
Change:					
Building, Water Treatment Plants & Sewage Disposal Plants Construction:					
Electricians	$10.45	.45	17		17

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H'& W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IA76-4145 - Mod. #4 (41 FR 38711 - Sept. 10,1976) Clinton County (City of Clinton & abutting municipalities), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction:					
Bricklayers & Stonemasons	$ 9.85		.65		
Cement Masons	9.35		.65		
Plasterers	9.85		.65		
DECISION #IA76-4175 - Mod. #1 (41 FR 45811 - Oct. 15,1976) Woodbury County (City of Sioux City & abutting municipalities), Iowa					
Change:					
Electricians	$10.76	.40	1%		1%
Plumbers & Steamfitters	9.62	.74	.55		.10

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION # KY76-1058 - Mod. # 4 (41 FR-21082 - May 21, 1976) McCracken County, Kentucky					
Change:					
Boilermakers	10.80	.75	1.00		.02
Electricians:					
Electricians	10.30	.40	1%		½ of 1%
Cable splicers	10.55	.40	1%		½ of 1%
Line Construction:					
Linemen	10.25	.45	1%		½ of 1%
Equipment operator	10.25	.45	1%		½ of 1%
Groundman	7.36	.45	1%		½ of 1%
Groundman truck driver	7.64	.45	1%		½ of 1%
Sheet metal workers	10.74	1.067	.80		.14
DECISION # KY76-1129 - Mod. # 2 (41 FR-52257 - November 26, 1976) Hardin, Jefferson, and Meade Counties, Kentucky					
CHANGE:					
Asbestos workers	10.66	.50	1.00		
Laborers:					
Group I	6.90	.35	.35		
Group II	7.10	.35	.35		
Group III	7.25	.35	.35		
Group IV	7.40	.35	.35		
Group V	8.10	.35	.35		
Truck Drivers:					
Group I	7.61	a	a	b	
Group II	7.51	a	a	b	
Group III	7.44	a	a	b	
Group IV	7.33	a	a	b	
Group V	7.21	a	a	b	

FOOTNOTES:

a. Employer contributes $ 21.00 per week to Health & Welfare and $20.00 per week to Pension for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive day period.

b. Employee who have been regularly employed on a project by an employer for one year and who worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employees who have been regularly employed on a project by an employer for one year, and who have worked a minimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MA76-2104- Mod #2 (41 FR 37485- September 3, 1976) Plymouth County, Massachusetts					
Change:					
Electricians:					
Remainder of County:					
Electrical contracts $40,000 or over	$11.05	6%	5%	2%	.5%
Elect. contracts under $40,000	9.15	6%	5%	2%	.5%
Residential	6.60	.50	5%	2%	.5%
Elevator constructors	11.445	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elev. constructors' helpers (prob)	50%JR	.545	.35	4%+a+b	.02
Line construction:					
Lineman	12.00	.65	1%	a	3/8of1%
Equipment operators	11.28	.65	1%	a	3/8of1%
Groundmen	7.68	.65	1%	a	3/8of1%
Driver groundman	9.03	.65	1%	a	3/8of1%
Piledrivermen:					
Remainder of County	10.15	.60	1.00		
DECISION NO. MA76-2105- Mod #2 (41 FR 35377- September 20, 1976) Suffolk County, Massachusetts					
Change:					
Elevator constructors	11.445	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elev. constructors' helpers (prob)	50%JR	.545	.35	4%+a+b	.02
Line construction:					
Linemen	12.00	.65	1%	d	3/8of1%
Equipment operators	11.28	.65	1%	d	3/8of1%
Driver groundman	9.03	.65	1%	d	3/8of1%
Groundman	7.68	.65	1%	d	3/8of1%
Piledrivermen	10.15	.60	1.00		
Plumbers	10.80	1.02	1.28		.05
DECISION NO. MA76-2106 Mod. #2 (41 FR 37409- September 3, 1976) Worcester County, Massachusetts					
Change:					
Electricians:	9.60	.50	1%+.30	.43	.02+a
Line construction:					
Linemen	12.00	.65	1%	a	3/8of1%
Equipment operator	11.28	.65	1%	a	3/8of1%
Driver groundman	9.03	.65	1%	a	3/8of1%
Groundman	7.68	.65	1%	a	3/8of1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # MS76-1084 - Mod. #3 (41 FR-35382 - August 20, 1976) Hinds County, Mississippi.					
Change:					
Roofers:					
Roofers	7.60	.15			
Kettlemen	6.00	.15			
Paper rollers	6.00	.15			
Helpers	4.70	.15			
Sprinkler fitters	10.10	.60	.90		.08
DECISION #MO76-4107 - Mod. #4 (41 FR 27621 - July 2, 1976) Franklin, Jefferson, Lincoln, St. Charles and Warren and St. Louis City and County, Missouri					
Change: Modification #2 dated December 10, 1976, to read modification #3					
DECISION #MO76-4108 - Mod. #4 (41 FR 27624 - July 2, 1976) Franklin, Jefferson, Lincoln, St. Charles and Warren Counties, and St. Louis City and County, Missouri					
Change: Modification #2 dated December 10, 1976, to read modification #3					

DECISION NO. MT76-5103 - Mod. #1
(41 FR 51326 - November 19, 1976)
Statewide, Montana

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Broadwater (Northern area), Lewis and Clark, Meagher, Powell (that portion lying east of a N-S line at the west edge of the Town of Elliston) Counties:					
Group 1	$7.31	.50	.30		.03
Group 2	7.465	.50	.30		.03
Group 3	7.565	.50	.30		.03
Group 4	7.66	.50	.30		.03
PAINTERS:					
Broadwater, Gallatin, Jefferson, (Northern area from a line running East and West five miles south of the Southern City limits of Boulder), Lewis and Clark (southern portion from a line running East and West through the southern limits of Craig), Madison (East of the West City limits of Harrison), Meagher, Park, Powell (Northern area from a line running East and West through the Southern City limits of Helmsville)					
Brush	8.44	.25	.20		.03
Spray, Steel Brush	9.44	.25	.20		.03
Structural Steel Brush	9.44	.25	.20		.03
Steel Spray	10.44	.25	.20		.03
Structural Steel Spray	10.94	.25	.20		.03
Water and Sandblast	11.34	.25	.20		.03

DECISION #MT76-5103 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cascade, Chouteau (south of a line running East and West through the Southern limits of Big Sandy), Daniels, Fergus, Glacier (excluding Glacier National Park), Garfield, Judith-Basin, Lewis and Clark, (Northern portion from a line running East and West through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toile, Valley and Wheatland (northern area from a line running East and West Thru the southern limits of Harlowtown) Counties					
Painters, brush, preparatory work; Pot tender; Parking lot strippint and related work; Roller up to 9 inches	8.09	.49	.30		1/2%
Perfataper	8.49	.49	.30		1/2%
Brush on steel; spraying & Airless spray	8.59	.49	.30		1/2%
Water & sandblasting; application of cold tar products, epoxies, polyurethanes and acid resistant paints; paperhangers	10.34	.49	.30		1/2%
Roller over 9 inches long	11.69	.49	.30		1/2%

DECISION NO. NM76-4182 - Mod. #3
(41 FR 50163 - November 12, 1976)
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS - ZONE I:					
AREA I					
1-A	$ 9.90	.60	17%+.70		1/2%
1-B	10.59	.60	17%+.70		1/2%
1-C	11.19	.60	17%+.70		1/2%
1-D	11.88	.60	17%+.70		1/2%
AREA II					
2-A	8.80	.60	17%+.70		1/2%
2-B	9.42	.60	17%+.70		1/2%
2-C	9.94	.60	17%+.70		1/2%
2-D	10.56	.60	17%+.70		1/2%
ELECTRICIANS - ZONE II	11.19	.60	17%+.70		1/2%
CABLE SPLICERS - ZONE I:					
AREA I					
1-A	10.89	.60	17%+.70		1/2%
1-B	11.58	.60	17%+.70		1/2%
1-C	12.18	.60	17%+.70		1/2%
1-D	12.87	.60	17%+.70		1/2%
AREA II					
2-A	9.68	.60	17%+.70		1/2%
2-B	10.30	.60	17%+.70		1/2%
2-C	10.82	.60	17%+.70		1/2%
2-D	11.44	.60	17%+.70		1/2%
CABLE SPLICERS - ZONE II	12.13	.60	17%+.70		1/2%

DECISION No. OH76-2041 - Mod. #5
(41 FR 15300 - April 9, 1976)
Statewide, Ohio

	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 3	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:						
Power Equipment Operators:						
Heavy and Highway						
Class A	$ 11.28	10.54	.46	1.00		.11
Class B	11.18	10.42	.46	1.00		.11
Class C	10.14	9.38	.46	1.00		.11
Class D	9.67	8.95	.46	1.00		.11
Class E	8.23	7.34	.46	1.00		.11
Zone Definitions						
Zone 2: Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage and Summit Counties						
Zone 3: Remainder of Counties						

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Painters:					
Zone 14 - Delaware, Fairfield, Fayette, Franklin, Madison, Pickaway and Union Counties	9.25	.55	.30		
Add:					
Painters:					
Zone 14 - Delaware, Fairfield, Fayette, Franklin, Madison, Pickaway and Union Counties:					
Brush	9.45	.55	.55		
Structural steel & Swing stage, Chair	9.75	.55	.55		
Spray	9.95	.55	.55		
Sand blast, Steam cleaning & Hazardous work	10.15	.55	.55		

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4115 - Mod. #4 (41 FR 29652 - July 16, 1976) Gregg County, Texas					
Change: Boilermakers	$10.00	.50	1.00		.02
DECISION #TX76-4118 - Mod. #3 (41 FR 29605 - July 16, 1976) Ector & Midland Cos., Texas					
Change: Boilermakers	10.00	.50	1.00		.02
DECISION #TX76-4126 - Mod. #3 (41 FR 30565 - July 23, 1976) Cameron, Hidalgo, Starr & Willacy Cos., Texas					
Change: Boilermakers	10.00	.50	1.00		.02
DECISION #TX76-4128 - Mod. #5 (41 FR 30566 - July 23, 1976) Wichita County, Texas					
Change: Boilermakers	10.00	.50	1.00		.02

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4155 - Mod. #4 (41 FR 43645 - October 1, 1976) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change: Electricians	$ 9.88	.40	1%		1/2%
DECISION #TX76-4157 - Mod. #5 (41 FR 43549 - October 1, 1976) Bell, Bosque, Coryell, Falls, Hill & McLennan Counties, Texas					
Change: Building Construction: Boilermakers	10.00	.50	1.00		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4168 - Mod. #3 (41 FR 44671 - October 8, 1976) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Boilermakers	$10.00	.50	1.00		.02
Electricians:					
Zone 1:					
Electricians	9.88	.40	1%		1/2%
Cable splicers	10.87	.40	1%		1/2%
Line Construction:					
Zone 1:					
Lineman	9.88	.40	1%		1/2%
Cable splicer	10.87	.40	1%		1/2%
Groundman, more than 1 year experience	6.49	.40	1%		1/2%
Groundman, less than 1 year experience	5.68	.40	1%		1/2%
Operator-hole digger, line truck	7.53	.40	1%		1/2%
Flat bed truck driver	5.68	.40	1%		1/2%
DECISION #TX76-4169 - Mod. #4 (41 FR 44662 - October 8, 1976) Bowie County, Texas					
Change:					
Boilermakers	10.00	.50	1.00		.02
Electricians	9.40	.40	1%		1/4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4170 - Mod. #2 (41 FR 44674 - October 8, 1976) Brazos County, Texas					
Change:					
Boilermakers	$10.00	.50	1.00		.02
Carpenters	9.00				
DECISION #TX76-4171 - Mod. #1 (41 FR 44664 - October 8, 1976) Taylor County, Texas					
Change:					
Boilermakers	10.00	.50	1.00		.02
DECISION #TX76-4183 - Mod. #2 (41 FR 50191 - November 12, 1976) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties, Texas					
Change:					
Boilermakers	10.00	.50	1.00		.02

SUPERSEDEAS DECISION

STATE: California

COUNTIES: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo Santa Barbara and Ventura

DECISION NUMBER: CA76-5120

DATE: Date of Publication

Supersedes Decision No. CA76-5058 dated July 2, 1976, in 41 FR 27549.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.35	.80	$ 1.02		.06
BOILERMAKERS	10.85	.65	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Imperial County	10.57	.83	1.06		.06
Inyo, Kern and Mono Counties	11.60	1.00	1.00		.07
Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach), Orange County	10.80	.95	1.15		.30
Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach)	10.03	.80	1.20		.07
Riverside and San Bernardino Counties	11.10	1.03	1.35		.07
Santa Barbara and San Luis Obispo Counties	9.47	1.05	1.20	.85	.01
Ventura County	11.10	.85	1.20		.02
BRICK TENDERS	8.255	.95	1.95	.55	
CARPENTERS:					
Carpenters	9.54	1.30	1.80	.80	.06
Saw Filers	9.62	1.30	1.80	.80	.06
Table Power Saw Operators	9.64	1.30	1.80	.80	.06
Shinglers; Piledrivermen, Bridge or dock Carpenters; Derrick Bargemen; Rock Slinger	9.67	1.30	1.80	.80	.06
Hardwood Floor Layers	9.74	1.30	1.80	.80	.06
Head Rock Slinger	9.77	1.30	1.80	.80	.06
Pneumatic Nailer	9.79	1.30	1.80	.80	.06
Millwrights	10.04	1.30	1.80	.80	.06
CEMENT MASONS:					
Cement Masons	9.41	1.10	1.75	1.00	.08
Cement Floating and Troweling Machine	9.66	1.10	1.75	1.00	.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRYWALL INSTALLERS	$ 11.21	$1.30	$ 1.80	.80	.07
ELECTRICIANS:					
Imperial County					
Electricians	12.50	.75	1%+1.25		
Cable Splicers	12.78	.75	1%+1.25		
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)					
Electricians; Technicians	14.06	.70	1%+1.39		.15
Cable Splicers	15.47	.70	1%+1.39		.15
Kern County (Remainder of Co.)					
Electricians; Technicians	11.56	.70	1%+1.39		.15
Cable Splicers	12.72	.70	1%+1.39		.15
Los Angeles County					
Electricians	12.29	1.05	1%+1.70		.02
Cable Splicers	12.59	1.05	1%+1.70		.02
Traffic Signal and Street Lighting:					
Electricians	11.79	1.05	1%+1.70		.02
Utility Technician No. 1	8.84	1.05	1%+1.70		.02
Utility Technician No. 2	8.25	1.05	1%+1.70		.02
Tunnel:					
Electricians	13.52	1.05	1%+1.70		.02
Cable Splicers	13.82	1.05	1%+1.70		.02
Sound Technicians:					
Sound Technicians (on building construction)	11.07	.50	1%		
Sound Technicians (on modificiation of existing buildings)	8.71	.50	1%		
Orange County					
Electricians	11.50	.45	1%+1.35		.02
Cable Splicers	12.03	.45	1%+1.35		.02
Riverside County					
Electricians	12.31	.60	1%+1.25		.04
Cable Splicers	12.61	.60	1%+1.25		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Inyo, Mono and San Bernardino Counties					
Electricians	$ 10.60	.71	18+1.50		.04
Cable Splicers	10.90	.71	18+1.50		.04
Tunnel:					
Electricians	11.66	.71	18+1.50		.04
Cable Splicers	11.96	.71	18+1.50		.04
San Luis Obispo County					
Electricians	11.61	1.00	18+1.15		.03
Cable Splicers	12.77	1.00	18+1.15		.03
San Barbara County (Vandenburg AFB)					
Electricians	13.35	.90	18+1.35		.03
Cable Splicers	14.35	.90	18+1.35		.03
Remainder of County					
Electricians	11.85	.90	18+1.35		.03
Cable Splicers	12.85	.90	18+1.35		.03
Ventura County					
Electricians	12.53	.84	18+1.05		.02
Cable Splicers	13.78	.84	18+1.05		.02
ELEVATOR CONSTRUCTORS:					
Imperial, Inyo, Kern (South of Tehachapi Range), Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties					
Elevator Constructors	12.95	.545	.35	38+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	38+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Kern County (North of Tehachapi Range)					
Elevator Constructors	13.49	.545	.35	38+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	38+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
GLAZIERS:					
Imperial County	9.69	.55	.60		
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Ventura Counties	11.19	.67	1.45		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Fence Erectors	$ 10.14	$1.09	$ 1.83		.04
Reinforcing	11.03	1.09	1.83		.04
Ornamental; Structural	11.03	1.09	1.83		.04
IRRIGATION AND LAWN SPRINKLERS:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	9.40	10%	16%	13%	3/4%
LATHERS:					
Inyo, Kern and Mono Counties	9.13	.60	1.30	.70	.05
Los Angeles County (except City of Lancaster)	11.00	.60	.75		.03
Ventura County	9.06	.60	1.10	1.00	.02
San Luis Obispo County	7.72	.87		3.20	
San Barbara County	8.72	.57	1.00	1.50	
LINE CONSTRUCTION:					
Imperial County					
Groundmen	10.00	.75	18+1.25		
Linemen	12.50	.75	18+1.25		
Cable Splicers	12.78	.75	18+1.25		
Kern (China Lake Naval Ordnance Test Station and Edwards AFB)					
Groundmen	11.17	.70	18+1.39		.15
Linemen	14.06	.70	18+1.39		.15
Cable Splicers	15.47	.70	18+1.39		.15
Kern County (Remainder of County)					
Groundmen	8.67	.70	18+1.39		.15
Linemen	11.56	.70	18+1.39		.15
Cable Splicers	12.72	.70	18+1.39		.15
Orange County					
Groundman 1st year	9.36	.45	18+1.35		.02
Groundman 2nd year	9.92	.45	18+1.35		.02
Lineman; Heavy Equipment Operators	11.50	.45	18+1.35		.02
Cable Splicers	12.03	.45	18+1.35		.02
Los Angeles County					
Groundmen	8.83	.71	18		
Linemen	11.77	.71	18		
Cable Splicers	12.07	.71	18		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (Cont'd)					
Riverside County					
Groundmen	$ 9.25	.60	18+1.25		.04
Linemen; Line Equipment Operators	12.33	.60	18+1.25		.04
Cable Splicers	12.63	.60	18+1.25		.04
San Luis Obispo County					
Groundmen	8.70	1.00	18+1.15		.03
Linemen; Line Equipment Operators	11.61	1.00	18+1.15		.03
Cable Splicers	12.77	1.00	18+1.15		.03
Ventura County					
Groundmen	9.24	.70	18+.55		.02
Linemen	10.42	.70	18+.55		.02
Cable Splicers	11.46	.70	18+.55		.02
San Barbara County (Vandenburg AFB)					
Groundmen	10.39	.90	18+1.35		.03
Linemen	13.35	.90	18+1.35		.03
Cable Splicers	14.35	.90	18+1.35		.03
Remainder of County					
Groundmen	8.89	.90	18+1.35		.03
Linemen	11.85	.90	18+1.35		.03
Cable Splicers	12.85	.90	18+1.35		.03
MARBLE SETTERS:					
Inyo and Mono Counties	10.64	1.00	.83	1.03	
Imperial County	10.04	.55	1.17	.75	
Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	8.16	.65	.55		
MARBLE SETTERS' HELPERS:					
Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	6.98	1.11	1.20		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (excluding Western portion)					
Brush; Paint Burners	$ 10.37	.97	$ 1.10	.75	.07
Paperhangers; Iron, steel and bridge (swing stage); Sheet rock taper	10.87	.97	1.10	.75	.07
Brush (swing stage); Spray	10.06	.97	1.10	.75	.07
Steeplejack	11.77	.97	1.10	.75	.07
Inyo, Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), Mono San Bernardino (west of a line north of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	10.72	.46	.60	.50	.01
Structural steel and bridge; Painter Burner	10.84	.46	.60	.50	.01
Tapers	11.42	.46	.60	.50	.01
Brush Swing Stage (13 stories or less); Paperhangers; Sandblasters; Spray	10.97	.46	.60	.50	.01
Brush swing stage (over 13 stories)	11.09	.46	.60	.50	.01
Structural steel and bridge, swing	11.12	.46	.60	.50	.01
Spray sandblaster swing stage (13 stories or less); Paste Machine; Special coating Spray	11.22	.46	.60	.50	.01
Steeplejack	11.97	.46	.60	.50	.01
Kern County (Remainder of County)					
Brush	9.87	.45	.61		.03
Brush or Roller, swing stage; Paperhangers; Taping joint sheet rock	10.12	.45	.61		.03
Spray; Sandblasters	9.87	.45	.61		.03
Steeplejack	11.37	.45	.61		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
San Luis Obispo, Santa Barbara, and Ventura Counties					
Brush	$ 11.26	.75	.60		.03
Iron and Steel; Paperhangers; Paste Machine Operator; Sandblaster	11.51	.75	.60		.03
Spraymen	11.76	.75	.60		.03
Steeplejack	12.51	.75	.60		.03
Tapers, sheetrock	11.54	.75	.60		.03
Parking Lot Striping Work and/or Highway Markers:					
Inyo and Mono Counties					
Striper	9.97	.50	.35	b	
Striper Helper	8.22	.50	.35	b	
Traffic Delineating Device Applicator; Wheel Stop Installer; Traffic Surface; Sandblaster	8.87	.50	.35	b	
Helper (traffic delineating device applicator, wheel stop installer, traffic surface sandblaster)	7.72	.50	.35	b	
Slurry Seal Operation					
Mixer Operator	8.87	.50	.35	b	
Squeegee Man	8.37	.50	.35	b	
Applicator Operator	7.72	.50	.35	b	
Shuttleman	6.65	.50	.35	b	
Top Man	6.22	.50	.35	b	
Remaining Counties:					
Traffic Delineating Device Applicator	8.87	.50	.35	b	
Striper; Wheel Stop Installer; Surface Sandblaster	8.48	.50	.35	b	
Helper (striper, wheel stop installer, traffic surface sandblaster)	6.83	.50	.35	b	
Slurry Seal Operation					
Mixer Operator	8.48	.50	.35	b	
Squeegee Man	7.48	.50	.35	b	
Applicator Operator	6.83	.50	.35	b	
Shuttleman	6.65	.50	.35	b	
Top Man	5.83	.50	.35	b	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Imperial County	$ 10.96	.65	$ 1.50	$ 1.00	.07
Los Angeles and Orange Con.	9.745	.68	1.85	.70	.10
Riverside and San Bernardino Counties	10.675				.01
San Luis Obispo County	12.00				
Santa Barbara County	8.69	.70	1.05		.01
Ventura County	8.625	.55	.50	.50	.02
PLASTERERS TENDERS:					
Imperial, Inyo, Mono, Riverside and San Bernardino Counties	10.18	.95	1.95	.50	
Kern County (China Lake Naval Ordnance Test Station, Edwards AFB)	11.725	.95	1.95	.55	
Kern County (Remainder of Co.)	9.10	.95	1.95	.55	
Los Angeles and Orange Con.	10.175	.95	1.95	.80	
San Luis Obispo County	8.35	.95	1.95	.50	
Santa Barbara County (except Santa Maria)	9.53	.95	1.95	.55	
Santa Barbara County (Santa Maria)	9.73	.95	1.95	.55	
Ventura County	9.88	.95	1.95	1.05	
PLUMBERS; Steamfitters:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	11.66	10¢	16¢	13¢	3/4¢
Inyo, Kern (except east of Los Angeles (Aqueduct) and Mono Counties	10.53	.95	1.60	1.00	.17
Kern County (East of Los Angeles Aqueduct)	13.03	.95	1.60	1.00	.17
REFRIGERATION & AIR CONDITIONING:					
Riverside and San Bernardino Counties	8.85	.96	.55	.80	.05
Los Angeles and Orange Counties	11.935	1.53	1.70	1.42	.20
ROOFERS:					
Imperial County	9.99	.50	.75	1.00	
Inyo, Kern and Mono Counties	9.20	.60	.60		
Riverside and San Bernardino Counties	9.90	.80	.65	1.00	
Los Angeles, Orange and Ventura Counties	11.59	.82	.80		.065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: (Cont'd)					
San Luis Obispo and Santa Barbara Counties	$ 9.83	.535	.34		.0025
SHEET METAL WORKERS:					
Imperial County	11.96	1.04	2.20		
Inyo, Kern, Los Angeles (North of line between Gorman and Big Pines) and Mono Counties	9.47	.84	1.35		.02
Los Angeles County (Remaining portion)	11.53	.94	1.50		.02
Orange County	11.02	.99	1.80		.02
Riverside and San Bernardino Counties	9.55	1.04	1.80		.05
San Luis Obispo, Santa Barbara and Ventura Counties	11.00	.94	1.60		
SOFT FLOOR LAYERS:					
Imperial County	9.55	.60	1.05		.07
Inyo (including Inyo-Kern Naval Reservation), Kern (East of the Los Angeles Aqueduct), Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Luis Obispo and Ventura Counties	9.12	.65	.62	.52	.03
Kern County (Remaining portions)	9.02	.60	.45	.52	.03
SPRINKLER FITTERS:					
Imperial Inyo, Kern, Mono, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario, San Luis Obispo, Santa Barbara and Ventura (except Santa Paula, Point Mugu and Port Hueneme)	14.82	.60	.90		.08
Los Angeles (Los Angeles City and Area within 25 miles and Pomona), Orange (Santa Ana), San Bernardino (Ontario), and Ventura (Santa Paula, Point Mugu and Port Hueneme)	14.66	.66	.90		.09

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS:					
Imperial County	$ 10.04	.55	$ 1.17	.75	
TILE SETTERS:					
Imperial County	10.04	.55	1.17	.75	
Los Angeles, Orange and Ventura Counties	11.40	.80	1.00		.08
San Luis Obispo and Santa Barbara Counties	9.47	1.05	1.20	.85	.01
Riverside and San Bernardino Counties	10.72	1.03	1.35		
TILE SETTERS' HELPERS:					
Imperial County	8.39	.55	.85		
Los Angeles, Orange and Ventura Counties	8.96	1.11	1.20		.13

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
A. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. Employer contributes $.22 per hour to Holiday Fund plus $.13 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.33 per hour to Vacation Fund, 5 years but less than 10 years $.43 per hour to Vacation Fund; over 10 years $.53 per hour to Vacation Fund.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLEANING AND HANDLING OF PANEL FORMS; Concrete screeding for rough strike off: Concrete, water curing; Demolition laborer, the cleaning of brick and lumber; Dry packing of concrete, plugging, filling or shee-bolt holes; Fire watcher, limbers, brush loaders, pilers and debris handler; Gas and oil pipeline; Laborers, general or construction; Laborer, temporary water and air lines; Material hoseman (walls, slab, floor and decks); Mixer-truck chute man (walls, slab decks, floors, foundations and footing-curb and gutter and sidewalks); Rigging and signalling; Slip form raisers; Window cleaner	$ 7.65	.95	$ 1.95	.55	.10
CUTTING TORCH (Demolition); Scaler; Tarman; Mortarman	7.70	.95	1.95	.55	.10
GUINEA CHASER	7.83	.95	1.95	.55	.10
ASPHALT SHOVELER; Fine grader, highway and street paving, airports, runways, and similar type heavy construction; Landscape gardener and nursery man	7.75	.95	1.95	.55	.10
PACKING ROD STEEL AND PANS; Tanks scaler and cleaner	7.77	.95	1.95	.55	.10
UNDERGROUND (INCLUDING CAISSON BELLOWERS)	7.78	.95	1.95	.55	.10
CHUCK TENDER: Septic tank digger and installer	7.80	.95	1.95	.55	.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CESSPOOL DIGGER AND INSTALLER	$ 7.83	.95	$ 1.95	.55	.10
CONCRETE CURER-IMPERVIOUS MEMBRANE AND FORM OILER; Rip Rap stonepaver placing stone or sacked concrete; Sandblaster (pot tender)	7.84	.95	1.95	.55	.10
PIPELAYERS' BACKUP MAN, COATING, GROUTING, MAKING OF JOINTS, SEALING, CAULKING, DIAPERING and INCLUDING RUBBER GASKET JOINTS, POINTING and ANY and ALL OTHER SERVICES	7.94	.95	1.95	.55	.10
BUGGYMOBILE MAN; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Gas and oil pipeline wrapper-pot tender; Power broom sweepers (small); Roto scraper and tiller; Tree climber, faller, chain saw operator, Pittsburg Chipper and similar type brush shredders; Trenching machine, hand propelled	7.86	.95	1.95	.55	.10
ASPHALT RAKER, LUTEMAN & IRONER; Concrete core cutter, grinder or sander; Concrete saw man, cutting, scoring old or new concrete, impact wrench, multi-plate; Pneumatic, gas, electric tools, vibrating machines and similar mechanical tools not separtely classified herein; Tamper, barko wacker and similar type	7.96	.95	1.95	.55	.10
ROCK SLINGER	7.86	.95	1.95	.55	.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRILLER, JACKHAMMER - 2½ ft. DRILL STEEL OR LONGER	$ 8.04	.95	$ 1.95	.55	.10
CONCRETE VIBRATOR OPERATOR, 70 lbs. and over	8.06	.95	1.95	.55	.10
GAS AND OIL PIPELINE WRAPPER - (6" and over); Kettlemen, Pot men and men applying asphalt, lay-kold, creosote, lime caustic and similar type materials	7.99	.95	1.95	.55	.10
CRIBBER, SHORER, LAGGING, SHEETING AND TRENCH BRACKING, HAND-GUIDED LAGGING HAMMER; Pipelayers (non-metallic including Sewer, Drain and Underground Tile); Prefabricated Manhole installer	8.16	.95	1.95	.55	.10
BLASTER POWDERMAN	8.30	.95	1.95	.55	.10
STEEL HEADBOARD MAN AND GUIDE-LINE SETTER	8.07	.95	1.95	.55	.10
SANDBLASTER (nozzleman)	8.10	.95	1.95	.55	.10
DRILLER (Core-Diamond-Wagon)	8.30	.95	1.95	.55	.10
HEAD ROCK SLINGER	8.17	.95	1.95	.55	.10
GUNNITE LABORERS: Nozzlemen and Rodmen	9.37	.95	1.95	.55	.10
Gunmen	8.87	.95	1.95	.55	.10
Reboundmen	7.91	.95	1.95	.55	.10

LABORERS (Tunnel)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BATCH PLANT LABORERS; Bull Gang Mucker, Trackman; Concrete Crew, including Rodders and Spreaders; Dumpman, Dumpman (outside); Swamper (Brakeman and Switchman on tunnel work); Tunnel materials handling Man; Tool Man	$ 9.23	.95	$ 1.95	.55	
CABLE TENDER: Chuck tender; Nipper; Steel form raiser and setter's helper; Vibratorman, jackhammer, pneumatic tools (except driller)	9.35	.95	1.95	.55	
BLASTER, Driller, Powderman; Chemical grout jetman; Cherry pickerman; Grout gunman; Grout mixerman; Grout pumpman; Jack-leg miner; Jumbo man; Kemper and other pneumatic concrete placer operator; Miner tunnel (hand or machine); Powderman (primer house); Primer Man; Shot-crete Man; Steel Form Raiser and setter; Timberman; Retimber (wood or steel); Tunnel concrete finisher	9.51	.95	1.95	.55	
SHAFT, Raise miner; Diamond - driller	9.79	.95	1.95	.55	

POWER EQUIPMENT OPERATORS DREDGING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(Hydraulic Suction Dredges)					
LEVERMAN	$ 11.30	.95	$ 2.00	.30	.04
WATCH ENGINEER; Welder	10.72	.95	2.00	.30	.04
DECKMATE	10.24	.95	2.00	.30	.04
WINCHMAN (Stern winch or dredge)	10.17	.95	2.00	.30	.04
BARGEMAN; Deckhand; Fireman; Oiler; Leveehand	9.63	.95	2.00	.30	.04
(Clamshell Dredges)					
LEVERMAN	11.30	.95	2.00	.30	.04
WATCH ENGINEER	10.72	.95	2.00	.30	.04
DECKMATE	10.24	.95	2.00	.30	.04
BARGEMATE	10.17	.95	2.00	.30	.04
BARGEMAN; Deckhand; Fireman; Oiler	9.63	.95	2.00	.30	.04

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:	$ 9.25	.95	$ 2.00	.50	.04
Group 2:	9.53	.95	2.00	.50	.04
Group 3:	9.82	.95	2.00	.50	.04
Group 4:	9.96	.95	2.00	.50	.04
Group 5:	10.18	.95	2.00	.50	.04
Group 6:	10.29	.95	2.00	.50	.04
Group 7:	10.41	.95	2.00	.50	.04
Group 8:	10.58	.95	2.00	.50	.04
Group 9:	10.71	.95	2.00	.50	.04
TRUCK DRIVERS					
Group 1:	$ 8.72	$1.25	.70	$ 1.00	.10
Group 2:	8.80	1.25	.70	1.00	.10
Group 3:	8.86	1.25	.70	1.00	.10
Group 4:	8.95	1.25	.70	1.00	.10
Group 5:	8.98	1.25	.70	1.00	.10
Group 6:	9.00	1.25	.70	1.00	.10
Group 7:	9.04	1.25	.70	1.00	.10
Group 8:	9.05	1.25	.70	1.00	.10
Group 9:	9.10	1.25	.70	1.00	.10
Group 10:	9.13	1.25	.70	1.00	.10
Group 11:	9.18	1.25	.70	1.00	.10
Group 12:	9.20	1.25	.70	1.00	.10
Group 13:	9.25	1.25	.70	1.00	.10
Group 14:	9.50	1.25	.70	1.00	.10
Group 15:	9.75	1.25	.70	1.00	.10
Group 16:	9.85	1.25	.70	1.00	.10

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

GROUP 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer oiler; Generator; Heavy duty repairman helper; Pump; Signalman; Switchman

GROUP 2: Compressor (600 C.F.M. or larger); Concrete mixer, skip type; Conveyor; Fireman; Hydrostatic pump; Oiler crusher (asphalt or concrete plant); Plant op., generator, pump or compressor; Rotary drill helper (oilfield); Skiploader - wheel type up to 3/4 yd. w/o attachments; Soils field technician; Tar pot fireman; Temporary heating plant; Trenching machine oiler; Truck crane oiler

GROUP 3: A-frame or winch truck; Elevator op. (inside); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Power concrete curing machine; Power concrete saw; Power driven jumbo form setter; Ross carrier (job site); Stationary pipe wrapping and cleaning machine

GROUP 4: Asphalt plant fireman; Boring machine; Boxman or mixerman (asphalt or concrete); Chip spreading machine; Concrete pump (small portable); Bridge type unloader and turntable; Dinkey locomotive or motorman (up to & incl. 10 tons); Equipment greaser (greaser truck); Helicopter hoist; Highline cableway signalman; Hydra-hammer-aero stomper; Power sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching machine (up to 6 ft.)

GROUP 5: Asphalt plant engineer; Backhoe (up to & incl. 3/4 yd.); Batch plant; Bit sharpener; Concrete joint machine (canal & similar type); Concrete planer; Deck engine; Derrickman (oilfield type); Drilling machine op. (incl. water wells); Forklift (under 5-ton capacity); Hydrographic seeder machine (straw, pulp or seed); Machine tool op.; Maginnis internal full slab vibrator; Mechanical berm, curb or gutter (concrete or asphalt); Mechanical finisher (concrete-Clary, Johnson, Bidwell or similar); Pavement breaker (truck mounted); Road oil mixing machine; Roller (asphalt or finish); Rubber-tired earth moving equipment (single engine, up to & incl. 25 yds. struck); Self-propelled tar pipe-lining machine; Slip form pump (power - driven hydraulic lifting device for concrete forms); Skiploader (crawler & wheel type over 3/4 yd. & up to & incl. 1½ yds); Stinger crane (Austin-Western or similar type); Tractor-bulldozer, tamper scraper (single engine, up to 100 h. p., flywheel & similar types, up to & incl. D-5 and similar types); Tugger hoist 1 drum; Tunnel locomotive (over 10 and up to & incl. 30 tons); Welder-general

GROUP 6: Asphalt or concrete spreading (tamping or finishing); Asphalt paving machine (Barber Greene or similar type); Bridge crane op.; Cast-in-place pipe laying machine; Combination mixer and compressor (gunite work); Compactor, self-propelled; Concrete mixer - paving; Concrete pump (truck mounted); Crane op.

POWER EQUIPMENT OPERATORS (CONT'D)
(Except Piledriving and Steel Erection)

up to and including 25 ton capacity)(Long-boom pay applicable); Crushing plant; Drill doctor; Elevating grader; Forklift (over 5 tons); Grade checker; Grade-all; Grouting machine; Heading shield; Heavy duty repairman; Hoist op. (Chicago boom and similar type); Kolman belt loader & similar type; LeTourneau blob compactor or similar type; Lift mobile; Lift slab machine (Vagtbord and similar types); Loader (Athey, Euclid, Sierra and similar type); Material hoist; Mucking machine (½ yd. rubber tired, rail or track type); Pneumatic concrete placing machine (Hackley-Presswell or similar type); Pneumatic heading shield (tunnel), Pumperete gun; Rotary drill (excl. caisson type); Rubber-tired earth moving equipment (single engine-Caterpiller, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and incl. 50 cu. yds. struck); Rubber-tired earth moving equipment (multiple engine, up to and incl. 25 yds. struck); Rubber-tired scraper (self-loading-paddle wheel type-John Deere, 1040 and similar single unit); Skiploader (crawler and wheel type-over 1½ yds., up to and including 6½ yds.); Surface heaters and planer; Trenching machine (over 6 ft. depth capacity); Tower crane; Tractor compressor drill combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar) bulldozer, tamper, scraper and push tractor single engine); Tractor (boom attachments); Traveling pipe wrapping, cleaning and bending machine; Tunnel locomotive (over 30 tons); Shovel backhoe, dragline, clamshell (over 3/4 yd. and up to 5 cu. yd. m.r.c.)(long boom pay applicable); Self-propelled curb and gutter machine

GROUP 7: Crane, over 25 ton up to and incl. 100 tons m.r.c. (long boom pay applicable); Derrick barge (long boom pay applicable); Dual drum mixer; Heavy duty repairman-welder combination; Hoist, stiff-legs, guy derrick or similar type, up to and incl. 100 tons (long boom pay applicable); Monorail locomotive (diesel, gas or electric); Motor patrol-blade op. (single engine); Multiple engine tractor (Euclid and similar type, except quad 9 cat); Rubber-tired earth moving equipment (single engine, over 50 yds., struck); Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similar) (over 25 yds and up to 50 cu. yds. struck); Shovel, backhoe, dragline, clam-shell (over 5 cu. yds. m.r.c.)(long boom pay applicable); Tower crane repairman; Tractor loader (crawler and wheel type over 6½ yds.); Welder-certified; Woods mixer and similar pugmill equipment

GROUP 8: Auto grader; Automatic slip form; Crane-over 100 tons (long boom pay applicable; Hoist-stiff legs, guy derrick or similar types (capable of hoisting 100 tons or more)(long boom pay applicable); Mass excavator-less than 750 cu. yds.; Mechanical finishing machine; Mobile form traveler; Motor patrol,multi-engine); Pipe mobile machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similar type over 50 cu. yds. struck); Rubber

POWER EQUIPMENT OPERATORS (CONT'D)
(Except Piledriving and Steel Erection)

tired self-loading scraper (paddle wheel-auger type self-loading-2 or more units); Rubber-tired scraper - pushing one another w/o push cat. Push-pull (50¢ per hr. additional to base rate); Tandem equipment (2 units only); Tandem tractor (quad 9 or similar type); Tunnel mole boring machine

GRADE 9: Canal liner; Canal trimmer; Helicopter pilot; Highline cableway; Remote controlled earth moving equipment ($1.00 p/h additional to base rate); Wheel excavator (over 750 cu. yd.)

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver or vehicle or combinations of vehicles of 2 axles (including all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers of vehicles or combination of vehicles of 3 axles

Group 5: Bootman; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 6½ yards

Group 8: Truck Repairman Helper

Group 9: Water Truck, 3 or more axles

Group 10: PB and similar type truck when performing within the Teamsters' jurisdiction; Pipeline and utility working truck including winch, but limited to truck applicable to Pipeline and Utility work, where a composite crew is used; Slurry Driver; Truck Greaser and Tireman (50¢ per hour additional for Tireman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 6½ yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All-off-highway equipment within Teamsters Jurisdiction (off highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

SUPERSEDEAS DECISION

STATE: California

COUNTIES: Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura

DECISION NUMBER: CA76-5121

DATE: Date of Publication

Supersedes Decision No. CA76-5059 dated July 2, 1976, in 41 FR 27559.

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.35	.80	$ 1.02		.06
BOILERMAKERS	10.85	.65	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Imperial County	10.57	.83	1.06		.06
Kern County	11.60	1.00	1.00		.07
Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach); Orange County	10.80	.95	1.15		.30
Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach)	10.03	.80	1.20		.07
Riverside and San Bernardino Counties	11.10	1.03	1.35		.07
Santa Barbara and San Luis Obispo Counties	9.47	1.05	1.20	.85	.01
Ventura County	11.10	.85	1.20		.02
BRICK TENDERS	8.255	.95	1.95	.55	
CARPENTERS:					
Carpenters	9.54	1.30	1.80	.80	.06
Saw Filers	9.62	1.30	1.80	.80	.06
Table Power Saw Operators	9.64	1.30	1.80	.80	.06
Shinglers; Piledrivermen, bridge or dock carpenters; Derrick bargemen; Rock slinger	9.67	1.30	1.80	.80	.06
Hard wood floor layers	9.74	1.30	1.80	.80	.06
Head Rock Slinger	9.77	1.30	1.80	.80	.06
Pneumatic Nailer	9.79	1.30	1.80	.80	.06
Millwrights	10.04	1.30	1.80	.80	.06
CEMENT MASONS:					
Cement Masons	9.41	1.10	1.75	1.00	.08
Cement Floating and Troweling Machine	9.66	1.10	1.75	1.00	.08
DRYWALL INSTALLERS	11.21	1.30	1.80	.80	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Imperial County					
Electricians	$ 12.50	.75	1%+1.25		
Cable Splicers	12.78	.75	1%+1.25		
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)					
Electricians; Technicians	14.06	.70	1%+1.39		.15
Cable Splicers	15.47	.70	1%+1.39		.15
Kern County (Remainder of County)					
Electricians; Technicians	11.56	.70	1%+1.39		.15
Cable Splicers	12.72	.70	1%+1.39		.15
Los Angeles County					
Electricians	12.29	1.05	1%+1.70		.02
Cable Splicers	12.59	1.05	1%+1.70		.02
Orange County					
Electricians	11.50	.45	1%+1.35		.02
Cable Splicers	12.03	.45	1%+1.35		.02
Riverside County					
Electricians	12.31	.60	1%+1.25		.04
Cable Splicers	12.61	.60	1%+1.25		.04
San Bernardino County					
Electricians	10.60	.71	1%+1.50		.04
Cable Splicers	10.90	.71	1%+1.50		.04
San Luis Obispo County					
Electricians	11.61	1.00	1%+1.15		.03
Cable Splicers	12.77	1.00	1%+1.15		.03
Santa Barbara County (Vandenburg AFB)					
Electricians	13.35	.90	1%+1.35		.03
Cable Splicers	14.35	.90	1%+1.35		.03
Remainder of County					
Electricians	11.85	.90	1%+1.35		.03
Cable Splicers	12.85	.90	1%+1.35		.03
Ventura County					
Electricians	12.53	.84	1%+1.05		.02
Cable Splicers	13.78	.84	1%+1.05		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Imperial, Kern (South of Tehachapi Range), Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties					
Elevator constructors	$ 12.95	.545	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.).	50%JR				
Kern County (North of Tehachapi Range)					
Elevator Constructors	13.49	.545	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
GLAZIERS:					
Imperial County	9.69	.55	.60		
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Ventura Counties	11.19	.67	1.45		.04
IRONWORKERS:					
Fence Erectors	10.14	1.09	1.83	1.15	.04
Reinforcing	11.03	1.09	1.83	1.15	.04
Ornamental; Structural	11.03	1.09	1.83	1.15	.04
IRRIGATION & LAWN SPRINKLERS:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties	9.40	10%	16%	13%	3/4%
LATHERS:					
Kern County	9.13	.60	1.30	.70	.05
Los Angeles County (except City of Lancaster)	11.00	.60	.75		.03
Ventura County	9.06	.60	1.10	1.00	.02
San Luis Obispo County	7.72	.87		3.20	
Santa Barbara County	8.72	.57	1.00	1.50	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Imperial, Orange, Riverside, Los Angeles (Pomona Area); San Bernardino (excluding Western portion)					
Brush; Paint Burners	$ 10.37	.99	$ 1.10	.75	.07
Paperhangers; Iron, steel and bridge (swing stage); Sheet Rock Taper	10.87	.99	1.10	.75	.07
Brush (swing stage); Spray	10.62	.99	1.10	.75	.07
Steeplejack	11.77	.99	1.10	.75	.07
Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), San Bernardino (west of a line North of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	10.72	.46	.60	.50	.01
Structural steel and bridge; Painter Burner	10.84	.46	.60	.50	.01
Tapers	11.42	.46	.60	.50	.01
Brush swing stage (13 stories or less); Paperhangers; Sandblasters; Spray	10.97	.46	.60	.50	.01
Brush swing stage (over 13 stories)	11.09	.46	.60	.50	.01
Structural steel and bridge, swing	11.12	.46	.60	.50	.01
Spray sandblaster swing stage (13 stories or less); Paste machine; Special coating spray	11.22	.46	.60	.50	.01
Steeplejack	11.97	.46	.60	.50	.01
Kern County (Remainder of County)					
Brush	9.87	.45	.61		.02
Brush or Roller, Swing stage; Paperhangers; Taping Joint Sheet Rock	10.12	.45	.61		.03
Spray; Sandblasters	9.87	.45	.61		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
San Luis Obispo, Santa Barbara and Ventura Counties					
Brush	$ 11.26	.75	.60		.03
Iron and Steel; Paperhangers; Paste Machine Operator; Sandblaster	11.51	.75	.60		.03
Tapers, Sheetrock	11.54	.75	.60		.03
Spraymen	11.76	.75	.60		.03
Steeplejack	12.51	.75	.60		.03
PLASTERERS:					
Imperial County	10.96	.65	1.50	1.00	.07
Los Angeles and Orange Cos.	9.745	.68	1.85	.70	.10
Riverside and San Bernardino Counties	10.675				.01
San Luis Obispo County	12.00				
Santa Barbara County	8.69	.70	1.05		.01
Ventura County	8.625	.55	.50	.50	.02
PLASTERERS' TENDERS:					
Imperial, Riverside and San Bernardino Counties	10.18	.95	1.95	.50	
Kern County (China Lake Naval Ordnance Test Station, Edwards AFB)	11.725	.95	1.95	.55	
Kern County (Remainder of Co.)	9.10	.95	1.95	.55	
Los Angeles and Orange Cos.	10.175	.95	1.95	.80	
San Luis Obispo County	8.35	.95	1.95	.50	
Santa Barbara County (except Santa Maria)	9.53	.95	1.95	.55	
Santa Barbara County (Santa Maria)	9.73	.95	1.95	.55	
Ventura County	9.88	.95	1.95	1.05	
PLUMBERS; Steamfitters:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties	11.66	10%	16%	13%	3/4%
Kern (except east of Los Angeles Aqueduct)	10.53	.95	1.60	1.00	.17
Kern County (east of Los Angeles Aqueduct)	13.03	.95	1.60	1.00	.17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
REFRIGERATION & AIR CONDITIONING:					
Riverside and San Bernardino Counties	$ 8.85	.96	.55	.80	.05
Los Angeles and Orange Cos.	11.935	1.53	1.70	1.42	.02
ROOFERS:					
Imperial County	9.99	.50	.75	1.00	
Kern County	9.20	.60	.60		
Los Angeles, Orange and Ventura Counties	11.59	.82	.80		.065
San Luis Obispo and Santa Barbara Counties	9.83	.535	.34		.0025
Riverside and San Bernardino Counties	9.90	.80	.65	1.00	
SHEET METAL WORKERS:					
Imperial County	11.96	1.04	2.20		
Kern, Los Angeles (North of a line between Gorman and Big Pines)	9.47	.84	1.35		.02
Los Angeles County (Remaining portion)	11.53	.94	1.50		.02
Orange County	11.02	.99	1.80		
Riverside and San Bernardino Counties	9.55	1.05	1.80		.05
San Luis Obispo, Santa Barbara and Ventura Counties	11.00	.94	1.60		
SOFT FLOOR LAYERS:					
Imperial County (Kern Naval Reservation), Kern (East of the Los Angeles Aqueduct), Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Luis Obispo and Ventura Counties	9.12	.65	.62	.52	.03
Kern County (Remaining portion)	9.02	.60	.45	.52	.03
SPRINKLER FITTERS:					
Imperial, Kern, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario), San Luis Obispo, Santa Barbara and Ventura (except Santa Paula, Point Mugu and Port Hueneme)	14.82	.60	.90		.08

	Basic Hourly Rate	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS: (Cont'd)					
Los Angeles (Los Angeles City and Area within 25 miles, and Pomona), Orange (Santa Ana), San Bernardino (Ontario), and Ventura (Santa Paula, Point Mugu and Port Hueneme)	$ 14.66	.66	.90		.09
TILE SETTERS:					
Imperial County	10.04	.55	1.17	.75	
Los Angeles, Orange and Ventura Counties	11.40	.80	1.00		.08
San Luis Obispo and Santa Barbara Counties	9.47	1.05	1.20	.85	.01
Riverside and San Bernardino Counties	10.72	1.03	1.35		
TILE SETTERS' HELPERS:					
Imperial County	8.39	.55	.85		
Los Angeles, Orange and Ventura Counties	8.96	1.11	1.20		.13

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLEANING AND HANDLING OF PANEL FORMS; Concrete screeding for rough strike off: Concrete, water curing; Demolition laborer, the cleaning of brick and lumber; Dry packing of concrete, plugging, filling or shea-bolt holes; Fire watcher, limbers, brush loaders, pilers and debris handler; Gas and oil pipeline; Laborers, general or construction; Laborer, temporary water and air lines; Material hoseman (walls, slab, floor and decks); Mixer-truck chute man (walls, slab decks, floors, foundations and footing-curb and gutter and sidewalks); Rigging and signalling; Slip form raisers; Window cleaner	$ 7.65	.95	$ 1.95	.55	.10
CUTTING TORCH (Demolition); Scaler; Tarman; Mortarman	7.70	.95	1.95	.55	.10
GUINEA CHASER	7.83	.95	1.95	.55	.10
ASPHALT SHOVELER; Fine grader, highway and street paving, airports, runways, and similar type heavy construction; Landscape gardener and nursery man	7.75	.95	1.95	.55	.10
PACKING ROD STEEL AND PANS; Tanks scaler and cleaner	7.77	.95	1.95	.55	.10
UNDERGROUND (INCLUDING CAISSON BELLOWERS)	7.78	.95	1.95	.55	.10
CHUCK TENDER; Septic tank digger and installer	7.80	.95	1.95	.55	.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CESSPOOL DIGGER AND INSTALLER	$ 7.83	.95	$ 1.95	.55	.10
CONCRETE CURER-IMPERVIOUS MEMBRANE AND FORM OILER; Rip Rap stonepaver placing stone or sacked concrete; Sandblaster (pot tender)	7.84	.95	1.95	.55	.10
PIPELAYERS' BACKUP MAN, COATING, GROUTING, MAKING OF JOINTS, SEALING, CAULKING, DIAPERING and INCLUDING RUBBER GASKET JOINTS, POINTING and ANY and ALL OTHER SERVICES	7.94	.95	1.95	.55	.10
BUGGYMOBILE MAN; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Gas and oil pipeline wrapper-pot tender; Power broom sweepers (small); Roto scraper and tiller; Tree climber, faller, chain saw operator, Pittsburg Chipper and similar type brush shredders; Trenching machine, hand propelled	7.86	.95	1.95	.55	.10
ASPAHLT RAKER, LUTEMAN & IRONER; Concrete core cutter, grinder or sander; Concrete saw man, cutting, scoring old or new concrete, impact wrench, multi-plate; Pneumatic, gas, electric tools, vibrating machines and similar mechanical tools not separtely classified herein; Tamper, barko wacker and similar type	7.96	.95	1.95	.55	.10
ROCK SLINGER	7.86	.95	1.95	.55	.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRILLER, JACKHAMMER - 2½ ft. DRILL STEEL OR LONGER	$ 8.04	.95	$ 1.95	.55	.10
CONCRETE VIBRATOR OPERATOR, 70 lbs. and over	8.06	.95	1.95	.55	.10
GAS AND OIL PIPELINE WRAPPER - (6" and over); Kettlemen, Pot men and men applying asphalt, lay-kold, creosote, lime caustic and similar type materials	7.99	.95	1.95	.55	.10
CRIBBER, SHORER, LAGGING, SHEETING AND TRENCH BRACKING, HAND-GUIDED LAGGING HAMMER; Pipelayers (non-metallic including Sewer, Drain and Underground Tile); Prefabricated Manhole installer	8.16	.95	1.95	.55	.10
BLASTER POWDERMAN	8.30	.95	1.95	.55	.10
STEEL HEADBOARD MAN AND GUIDE-LINE SETTER	8.07	.95	1.95	.55	.10
SANDBLASTER (nozzleman)	8.10	.95	1.95	.55	.10
DRILLER (Core-Diamond-Wagon)	8.30	.95	1.95	.55	.10
HEAD ROCK SLINGER	8.17	.95	1.95	.55	.10
GUNNITE LABORERS: Nozzlemen and Rodmen	9.37	.95	1.95	.55	.10
Gunmen	8.87	.95	1.95	.55	.10
Reboundmen	7.91	.95	1.95	.55	.10

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:	$ 9.25	.95	$ 2.00	.50	.04
Group 2:	9.53	.95	2.00	.50	.04
Group 3:	9.82	.95	2.00	.50	.04
Group 4:	9.96	.95	2.00	.50	.04
Group 5:	10.18	.95	2.00	.50	.04
Group 6:	10.29	.95	2.00	.50	.04
Group 7:	10.41	.95	2.00	.50	.04
Group 8:	10.58	.95	2.00	.50	.04
Group 9:	10.71	.95	2.00	.50	.04
TRUCK DRIVERS					
Group 1:	$ 8.72	$1.25	.70	$ 1.00	.10
Group 2:	8.80	1.25	.70	1.00	.10
Group 3:	8.86	1.25	.70	1.00	.10
Group 4:	8.95	1.25	.70	1.00	.10
Group 5:	8.98	1.25	.70	1.00	.10
Group 6:	9.00	1.25	.70	1.00	.10
Group 7:	9.04	1.25	.70	1.00	.10
Group 8:	9.05	1.25	.70	1.00	.10
Group 9:	9.10	1.25	.70	1.00	.10
Group 10:	9.13	1.25	.70	1.00	.10
Group 11:	9.18	1.25	.70	1.00	.10
Group 12:	9.20	1.25	.70	1.00	.10
Group 13:	9.25	1.25	.70	1.00	.10
Group 14:	9.50	1.25	.70	1.00	.10
Group 15:	9.75	1.25	.70	1.00	.10
Group 16:	9.85	1.25	.70	1.00	.10

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

GROUP 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer oiler; Generator; Heavy duty repairman helper; Pump; Signalman; Switchman.

GROUP 2: Compressor (600 C.F.M. or larger); Concrete mixer, skip type; Conveyor; Fireman; Hydrostatic pump; Oiler crusher (asphalt or concrete plant); Plant op., generator, pump or compressor; Rotary drill helper (oilfield); Skiploader - wheel type up to 3/4 yd. w/o attachments; Soils field technician; Tar pot fireman; Temporary heating plant; Trenching machine oiler; Truck crane oiler

GROUP 3: A-frame or winch truck; Elevator op. (inside); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Power concrete curing machine; Power concrete saw; Power driven jumbo form setter; Ross carrier (job site); Stationary pipe wrapping and cleaning machine

GROUP 4: Asphalt plant fireman; Boring machine; Boxman or mixerman (asphalt or concrete); Chip spreading machine; Concrete pump (small portable); Bridge type unloader and turntable; Dinkey locomotive or motorman (up to & incl. 10 tons); Equipment greaser (greaser truck); Helicopter hoist; Highline cableway signalman; Hydra-hammer-aero stomper; Power sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching machine (up to 6 ft.)

GROUP 5: Asphalt plant engineer; Backhoe (up to & incl. 3/4 yd.); Batch plant; Bit sharpener; Concrete joint machine (canal & similar type); Concrete planer; Deck engine; Derrickman (oilfield type); Drilling machine op. (incl. water wells); Forklift (under 5-ton capacity); Hydrographic seeder machine (straw, pulp or seed); Machine tool op.; Maginnis internal full slab vibrator; Mechanical berm, curb or gutter (concrete or asphalt); Mechanical finisher (concrete-Clary, Johnson, Bidwell or similar); Pavement breaker (truck mounted); Road oil mixing machine; Roller (asphalt or finish); Rubber-tired earth moving equipment (single engine, up to & incl. 25 yds. struck); Self-propelled tar pipelining machine; Slip form pump (power - driven hydraulic lifting device for concrete forms); Skiploader (crawler & wheel type over 3/4 yd. & up to & incl. 1½ yds); Stinger crane (Austin-Western or similar type); Tractor-bulldozer, tamper scraper (single engine, up to 100 h. p., flywheel & similar types, up to & incl. D-5 and similar types); Tugger hoist 1 drum; Tunnel locomotive (over 10 and up to & incl. 30 tons); Welder-general

GROUP 6: Asphalt or concrete spreading (tamping or finishing); Asphalt paving machine (Barber Greene or similar type); Bridge crane op.; Cast-in-place pipe laying machine; Combination mixer and compressor (gunite work); Compactor, self-propelled; Concrete mixer - paving; Concrete pump (truck mounted); Crane op.

POWER EQUIPMENT OPERATORS (CONT'D)
(Except Piledriving and Steel Erection)

up to and including 25 ton capacity)(Long-boom pay applicable); Crushing plant; Drill doctor; Elevating grader; Forklift (over 5 tons); Grade checker; Grade-all; Grouting machine; Heading shield; Heavy duty repairman; Hoist op. (Chicago boom and similar type); Kolman belt loader & similar type; LeTourneau blob compactor or similar type; Lift mobile; Lift slab machine (Vagtbord and similar types); Loader (Athey, Euclid, Sierra and similar type); Material hoist; Mucking machine (½ yd. rubber tired, rail or track type); Pneumatic concrete placing machine (Hackley-Presswell or similar type); Pneumatic heading shield (tunnel), Pumpcrete gun; Rotary drill (excl. caisson type); Rubber-tired earth moving equipment (single engine-Caterpiller, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and incl. 50 cu. yds. struck); Rubber-tired earth moving equipment (multiple engine, up to and incl. 25 yds. struck); Rubber-tired scraper (self-loading-paddle wheel type-John Deere, 1040 and similar single unit); Skiploader (crawler and wheel type-over 1½ yds., up to and including 6½ yds.); Surface heaters and planer; Trenching machine (over 6 ft. depth capacity); Tower crane; Tractor compressor drill combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar) bulldozer, tamper, scraper and push tractor single engine); Tractor (boom attachments); Traveling pipe wrapping, cleaning and bending machine; Tunnel locomotive (over 30 tons); Shovel backhoe, dragline, clamshell (over 3/4 yd. and up to 5 cu. yd. m.r.c.)(long boom pay applicable); Self-propelled curb and gutter machine

GROUP 7: Crane, over 25 ton up to and incl. 100 tons m.r.c. (long boom pay applicable); Derrick barge (long boom pay applicable); Dual drum mixer; Heavy duty repairman-welder combination; Hoist, stiff-legs, guy derrick or similar type, up to and incl. 100 tons (long boom pay applicable); Monorail locomotive (diesel, gas or electric); Motor patrol-blade op. (single engine); Multiple engine tractor (Euclid and similar type, except quad 9 cat); Rubber-tired earth moving equipment (single engine, over 50 yds., struck); Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similar) (over 25 yds and up to 50 cu. yds. struck); Shovel, backhoe, dragline, clamshell (over 5 cu. yds, m.r.c.)(long boom pay applicable); Tower crane repairman; Tractor loader (crawler and wheel type over 6½ yds.); Welder-certified; Woods mixer and similar pugmill equipment

GROUP 8: Auto grader; Automatic slip form; Crane-over 100 tons (long boom pay applicable; Hoist-stiff legs, guy derrick or similar types (capable of hoisting 100 tons or more)(long boom pay applicable); Mass excavator-less than 750 cu. yds.; Mechanical finishing machine; Mobile form traveler; Motor patrol,multi-engine); Pipe mobile machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similar type over 50 cu. yds. struck); Rubber

POWER EQUIPMENT OPERATORS (CONT'D)
(Except Piledriving and Steel Erection)

tired self-loading scraper (paddle wheel-auger type self-loading-2 or more units); Rubber-tired scraper - pushing one another w/o push cat. Push-pull (50c per hr. additional to base rate); Tandem equipment (2 units only); Tandem tractor (quad 9 or similar type); Tunnel mole boring machine

GRADE 9: Canal liner; Canal trimmer; Helicopter pilot; Highline cableway; Remote controlled earth moving equipment ($1.00 p/h additional to base rate); Wheel excavator (over 750 cu. yd.)

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver of vehicle or combinations of vehicles of 2 axles (including all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers on vehicles or combination of vehicles of 3 axles

Group 5: Bootman; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 6½ yards

Group 8: Truck Repairman Helper

Group 9: Water Truck, 3 or more axles

Group 10: PB and similar type truck when performing within the Teamsters jurisdiction; Pipeline and utility working truck including which, but limited to truck applicable to Pipeline and Utility work, where a composite crew is used; Slurry Driver; Truck Greaser and Tireman (50c per hour additional for Tireman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 6½ yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All off-highway equipment with Teamster's jurisdiction (off highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

SUPERSEDEAS DECISION

STATE: CONNECTICUT COUNTIES: *See Below
DECISION NUMBER: CT76-2172 DATE: Date of Publication
Supersedes Decision Nos.: CT76-2111 dated September 17, 1976, in 41 FR 40378
and CT76-2112 dated September 17, 1976, in 41 FR 40386
DESCRIPTION OF WORK: Building Construction (including residential), Heavy and Highway Construction

*Fairfield, Litchfield, and Windham Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fairfield Co.; Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Kent, Litchfield, Morris, New Hartford, New Milford, Plymouth, Roxbury, Sharon, Torrington, Warren, Washington, Watertown, Winchester, Woodbury, & Thomaston; Windham Co.: Ashford, Chaplin, Eastford, Hampton, Scotland & Windham	$10.34	.65	.96		
Litchfield Co.: Canaan, Colbrook, Norfolk, N. Canaan & Salisbury; Windham Co.: Woodstock	9.60	.54	.75		.01
Windham Co.: Brooklyn, Canterbury, Killingly, Plainfield, Pomfret, Putnam, Sterling, & Thompson	9.32	.71	.83		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; Cement masons; Finishers; Marble masons; Plasterers; Stonemasons; Terrazzo workers; Tile setters (Building Construction):					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Southport, Stratford, & Trumbull	9.70	.65	.50		$50.00p/y
Fairfield Co.: New Canaan, Norwalk, Ridgefield, Weston, Westport, & Wilton	9.85	.65	.50	a	
Fairfield Co.: Darien & Stamford	9.60	.53	.25		
Fairfield Co.: Greenwich	9.90	.50	.45		
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, & Sherman; Litchfield Co.: Bridgewater, Kent, New Milford, & Roxbury	9.65	.65	.50		

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BRICKLAYERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Litchfield Co.: Bantam, Barkhamsted, Bethlehem, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, & Winsted	9.45	.65	.50		
Windham Co.	9.85	.65	.50		.01
Litchfield Co.: Plymouth, Thomaston, Watertown, & Woodbury	9.55	.65	.55		
BRICKLAYERS (Heavy & Highway Construction):					
Fairfield Co., except Darien, Greenwich, & Stamford; Litchfield Co., w. of Housatonic River	9.00	.65	.50	b	
Fairfield Co.: Darien & Stamford	9.08	.68	.25	b	
Fairfield Co.: Greenwich	9.09	.56	.45	b	
Litchfield Co., e. of Housatonic River; & Windham Co.	8.95	.65	.50	b	
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers (Building Construction):					
Fairfield Co.: Greenwich	9.43	.46	.45		.02
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Stratford, Trumbull, Weston, & Westport, & that part of Orange from Orange Center Road w. to Milford & the Oyster River situated in Orange	9.35	.50	.30	c	$50.00p/y
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Redding, Ridgefield, Sherman, Stamford, & Wilton; Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D):					
Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, Norwalk, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, & Woodbury	$9.25	.50	.40		.05
Litchfield Co.: Harwinton, Plymouth, & Terryville	9.80	.70	.45		.05
Fairfield Co.: Shelton	9.35	.35	.30	d	
Litchfield Co.: Morris (S. of Rte #109), Northfield, Thomaston, & Watertown	9.35	.50	.30	a	.03
Windham Co.: Canterbury (S. of Rte #14), Scotland	9.75	.70	.45		.03
CARPENTERS (Heavy & Highway Construction):					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, & Westport	9.55	.70	.45	f	$50.00p/y
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford, & Wilton; & Litchfield Co.	9.55	.70	.45	f	.05
Fairfield Co.: Greenwich	9.60	.65	.45	f	.02
Windham Co.	9.55	.70	.45	f	.03
ELECTRICIANS:					
Fairfield Co.: Norwalk (E. of Five Mile River), Weston, Westport, & Wilton					
Building construction	9.60	.68	1%+.30	6%	½%
Residential construction	5.30	.68	1%+.30	6%	½%
Fairfield Co.: Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newtown, Redding, Ridgefield, Shelton, Sherman, Stratford, & Trumbull; Litchfield Co.: Bridgewater, & New Milford					
Building construction	10.05	.58	1%+.30		½%
Residential construction	5.60	.43	1%+.20		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D):					
Fairfield Co.: Darien, Greenwich, New Canaan, & Stamford	$9.68	3-3/4%	7½%+1.50	10%	½%
Litchfield Co.: Plymouth					
Building construction	10.17	1.00	1%+.50		½%
Residential construction	5.53	.55	1%+.50		½%
Windham Co.:					
Building construction	10.55	1.00	1%+.50		½%
Residential construction	5.50	.75	1%+.45		½%
Litchfield Co.: Rem. of Co.	10.30	.82	1%+.60	g	1/8%
ELEVATOR CONSTRUCTORS	10.35	.545	.35	4%+h+1	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.245	.545	.35	4%+h+1	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.175				
GLAZIERS:					
Fairfield Co.: Greenwich	9.10	.66	1.66	.365	.03
Fairfield Co.: Rem. of Co.; & Litchfield Co.	9.53	.95	.47	j	.01
Windham Co.	11.41	.84	.55	k	
IRONWORKERS:					
Ornamental; Reinforcing; Structural; and Precast concrete erection	11.10	.75	.95	1	.08
LATHERS:					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Redding, Ridgefield, Shelton, Stratford, Trumbull, Weston, Westport, & Wilton	9.73	.35	.40		.01
Fairfield Co.: Greenwich, New Canaan, Norwalk, & Stamford	8.51	.35	.20	.75	.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newtown, & Sherman; Litchfield Co.: Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Milford, N. Canaan, Plymouth, Roxbury, Thomaston, Torrington, Warren, Washington, Watertown, & Woodbury	9.65	.35	.30		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS (CONT'D):					
Litchfield Co.: Barkhamsted, Colebrook, New Hartford, Norfolk, & Winchester; Windham Co.: Chaplin, Hampton, Scotland, & Windham	9.90	.35	.30		.01
Windham Co.: Danielson	9.25	.45	.55		.01
LEADBURNERS	9.25	.35		m	.01
LINE CONSTRUCTION:					
Fairfield Co.: Darien, Greenwich, New Canaan, Stamford, & that portion of Norwalk, w. of Five Mile River					
Linemen	9.33	3-3/4%	6%+n+o	10%	½%
Cable splicers	9.33	3-3/4%	6%+n+o	10%	½%
Driver groundmen	9.33	3-3/4%	6%+n+o	10%	½%
Fairfield Co.: Rem. of Co.; Litchfield Co.; & Windham Co.					
Linemen	10.42	.70	1%+.50	p	3/8%
Equipment operators	9.69	.70	1%+.50	p	3/8%
Driver groundmen	7.37	.70	1%+.50	p	3/8%
MARBLE SETTERS' HELPERS:					
Fairfield Co.: Darien, Greenwich, Norfolk, Stamford, & Westport	7.33	.74	.88	q	
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers:					
Fairfield Co.: Rem. of Co.; Litchfield Co.; & Windham Co.	8.65	.50	.65		
PAINTERS:					
Bridge:					
Structural steel	12.00				
Spray	15.50				
Sandblasting or power tools	13.00				
Fairfield Co.: Greenwich					
Brush; Structural steel; Paperhangers; Tapers	7.90	.20	.75	.30	
Spray	11.85	.20	.75	.30	
Fairfield Co.: Bridgeport, Easton, Fairfield, Southport, Stratford and Trumbull					
Brush	8.65	.50	.65	r	
Spray	10.65	.50	.65	r	
Taper	9.04	.50	.65	r	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Fairfield Co.: Darien & Stamford					
Brush	$8.00	.50	.50		.01
Spray	9.85	.50	.50		.01
Fairfield Co.: New Canaan, Norwalk, Weston, Westport, & Wilton					
Brush	8.00	.50	.50		.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, Ridgefield, Sandy Hook & Sherman; Litchfield Co.: New Milford					
Brush; Roller	9.35	.50	.25		
Paperhangers; Tapers	8.70	.50	.25		
Epoxy	10.85	.50	.25		
Residential	7.60	.50	.25		
Fairfield Co.: Byram					
Brush	8.15	.45	.45+.426/7	.40	
Spray	9.15	.45	.45+.426/7	.40	
Steel & Swing stage & boatswain chair	9.31 3/7	.45	.45+.426/7	.40	
Drywall taper	8.95	.45	.45+.426/7	.40	
Fairfield Co.: Monroe & Shelton					
Brush	9.25	.35	.80	s	.01
Hand roller; Paperhangers	9.75	.35	.80	s	.01
Structural steel	10.25	.35	.80	s	.01
Spray	12.25	.35	.80	s	.01
Windham Co.: Willimantic & Windham					
Brush; Tapers	9.80	.65	.45		
Paperhangers	10.30	.65	.45		
Riding steel; Steamcleaning; Sandblasting; Tanks; Towers; & Hazardous Work	10.38	.65	.45		
Spray	12.80	.65	.45		
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent, Litchfield, New Hartford, Newfield, N. Canaan, Plymouth, Salisbury, Sharon, Terryville,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Torrington, Warren, Winchester, & Winsted					
Brush; Roller; Taping	$9.40	.70	.45		
Spray; High	12.00	.70	.45		
Epoxy	9.30	.70	.45		
Paperhanging	9.90	.70	.45		
Work over 60' & Boatswain chair; Open steel	14.10	.70	.45		
Windham Co., except Willimantic & Windham					
Brush	8.95	.35	.60		.01
Paperhangers	9.25	.35	.60		.01
Sign	9.33	.35	.60		.01
Taping	9.35	.35	.60		.01
Roller	9.45	.35	.60		.01
Structural steel	9.75	.35	.60		.01
Spraying oil paint	12.10	.35	.60		.01
Spraying epoxy	13.35	.35	.60		.01
PLUMBERS:					
Windham Co.: Windham	10.10	.62	.62		.20
PLUMBERS; Steamfitters:					
Fairfield Co.: Greenwich	10.00	.45	.70		.02
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, & Trumbull	9.99	.75	.70	4%	.01
Fairfield Co.: Georgetown, Norwalk, S. Norwalk, Weston, Westport, & Wilton	9.50	.75	.50	.36	.02
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, Ridgefield, & Sherman; Litchfield Co.: Bridgewater, & New Milford	9.85	.75	.70	.50	.02
Fairfield Co.: Darien, New Canaan, & Stamford	10.20	.75	.70	4%	.02
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Falls Village, Goshen, Harwinton, Kent, Lakeville, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Winchester, & Winsted	9.64	.83	.70	t	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters (CONT'D):					
Litchfield Co.: Bethlehem, New Preston, Plymouth (incl. Terryville), Roxbury, Thomaston, Washington, Watertown & Woodbury	$10.00	.83	.70	t	.05
Windham Co., except Windham	11.32	.40	.70	u	.025
ROOFERS:					
Fairfield Co., except that portion of Fairfield Co. bounded on the e. by the eastern boundary of Greenwich; Litchfield Co.: Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, & Woodbury	9.65	1.05	.50		
Litchfield Co.: Bantam, Canaan, Colebrook, Cornwall, Cornwall Bridge, E. Canaan, Falls Village, Gaylordsville, Goshen, Lakeside, Litchfield, Marbledale, Morris, New Hartford, New Preston, Norfolk, Northfield, Oakville, Pequabuck, Pine Meadow, Pleasant Valley, Plymouth, Riverton, Salisbury, Sharon, S. Kent, Taconic, Terryville, Thomaston, Torrington, Washington Depot, Watertown, W. Cornwall, W. Goshen, Winchester Center, & Winsted; & Windham Co.					
Composition	8.75	.525	.70	.55	
Slate & Tile	9.25	.525	.70	.55	
Fairfield Co.: That portion of Fairfield Co. bounded on the e. by the eastern boundary of Greenwich					
Slate & Tile	9.20	.50	1.40	1.40	
Helpers	7.50	.50	1.00	1.00	
SHEET METAL WORKERS:					
Fairfield Co.; Litchfield Co.	11.19	9½%	7%		.02
Windham Co.	10.95	.50	.66		.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$11.38	.60	.90		.08
STEAMFITTERS:					
Windham Co.: Windham	10.27	1.16	.66		.13
TILE SETTERS' HELPERS:					
Fairfield Co.: Darien, Greenwich, Norwalk, Stamford, & Westport	7.58	.50	1.27		

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. 7 paid holidays: A through F, and Good Friday
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holidays: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately, prior to the holiday.
d. 3 paid holidays: C, D, and E
e. 4 paid holidays: B, C, D, and E
f. 3 paid holidays: B, C, and D
g. The last 4 regular working hours prior to Christmas shall be a paid half day.
h. 6 paid holidays: A through F.
i. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
j. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Columbus Day.
l. The last 4 hours on Christmas Eve is a paid half day if employee has worked 5 consdcutive days prior to Christmas Eve.
m. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the day preceding and following the holiday.
n. 1% of the gross electrical labor payroll
o. Employer contributes $1.50 per day to a supplemental unemployment fund.
p. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
q. 1 paid holiday: St. Patrick's Day
r. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday
s. 4 paid holidays: B, C, D, and E providing the employee works the day before and the day after the holiday
t. 2 paid holidays: B and D and half day paid holiday the Friday after Thanksgiving and the last working day before Christmas and Good Friday paid half day
u. 1 paid holiday: D
v. 3% of gross earnings to SASMI

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POWER EQUIPMENT OPERATORS (Building construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver; & Setting stone	$10.90	.45	.90	a	.10
Dragline; Fork lift - over 4' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull or drag material regardless of motive power or operation); Kochring scooper loader and/or hoe; Master mechanic; Shovel; & Tower crane	10.80	.45	.90	a	.10
Maintenance engineer	10.70	.45	.90	a	.10
Central mix operator; Coleman loader and screening plant or similar equipment; Combination hoe and loader over 1/4 yd.; Conveyors - regardless of motive power; Front end loader - 3 cy. up to 7 cy.; High pressure portable boiler; Joy drill - limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; Pumperete machine; Rock boring machine; Vibratory hammer; Welder; & Well digger	10.45	.45	.90	a	.10
Compressor battery operator	9.70	.45	.90	a	.10
Asphalt spreader	10.25	.45	.90	a	.10
Bulldozer; Carry-all operators; Grader; & Scraper pan	10.20	.45	.90	a	.10
Combination hoe and loader machine; Concrete mixer - 5 bags or over; Front end loader under 3 cy.; Powerstone spreader	10.15	.45	.90	a	.10
Air and steam valve	9.45	.45	.90	a	.10
Compressor; Generator; Pump and Well point; Welding machine	9.35	.45	.90	a	.10

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POWER EQUIPMENT OPERATORS (Building Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Cont'd):					
Fork lift not over 4'; & Steam Jenny	$10.05	.45	.90	a	.10
Mechanical heater	9.20	.45	.90	a	.10
Roller	9.95	.45	.90	a	.10
Dinky machine; Power pavement breaker	9.80	.45	.90	a	.10
Fireman (High pressure)	9.00	.45	.90	a	.10
Oiler	8.55	.45	.90	a	.10
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
Apprentice Oilers (Newly hired on Backhoes on Tracks)	5.80	.45	.90	a	.10
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day					
FOOTNOTE: a. 7 paid holidays: A through F and Good Friday					
LABORERS (Heavy and Highway Construction):					
Laborers	$7.50	.50	.45		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operator; Fence & guard rail erectors; Form setters; Hand operated concrete vibrator operators; Hand operated vibratory compactor operators; Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic Gas & Electric drill operators; Powderman & wagon drill operators	7.75	.50	.45		.10
Air track operators; Block pavers; Curb setters	8.00	.50	.45		.10
Blasters	8.25	.50	.45		.10

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POWER EQUIPMENT OPERATORS (Heavy and Highway construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Class 1	$10.93	.45	.90	a	.10
Class 2	10.79	.45	.90	a	.10
Class 3	10.47	.45	.90	a	.10
Class 4	10.28	.45	.90	a	.10
Class 5	10.14	.45	.90	a	.10
Class 6	9.96	.45	.90	a	.10
Class 7	9.76	.45	.90	a	.10
Class 8	8.92	.45	.90	a	.10
Class 9	9.02	.45	.90	a	.10
Class 10	9.36	.45	.90	a	.10
Class 11	9.69	.45	.90	a	.10
Class 12	8.58	.45	.90	a	.10
Class 13	9.30	.45	.90	a	.10
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					
Apprentice Oilers (Newly hired on Backhoes on Tracks)	5.80	.45	.90	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F, and Good Friday

CLASSIFICATIONS:
Class 1: Erecting and handling structural steel; Front end loader (7 cy. or over)
Class 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; Lighter derrick; Paver (concrete); Derrick (stiff leg and guy); Steel pile sheeting; Koehring loader (skooper); Master mechanic
Class 3: Drill (Joy heavy weight champion or equivalent); Side boom; loader (Euclid); Mucking machine; Pumpcrete; Rock and earth boring machine; Post hole digger; Well digger; & Hammer (vibratory); Central mix; Combination hoe & loader (over 1/4 yd)
Class 4: Asphalt spreader
Class 5: Front end loader (3 yds. or over); Grader; Power stone spreader; Combination hoe and loader
Class 6: Asphalt roller; Bulldozer; Carryall; Maintenance engineer; Concrete mixer (5 bags and over); Welder
Class 7: Front end loader (under 3 yds.); Roller; Power chipper; Fork lift; Finishing machine; Asphalt plant; Power pavement breaker; Dinky machine
Class 8: Compressor; Pump
Class 9: Fireman (high pressure)
Class 10: Well point system
Class 11: Compressor battery
Class 12: Oiler
Class 13: Batch plant; Bulk cement plant

DECISION NO. CT76-2172

TRUCK DRIVERS (Building, Heavy, and Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
TRUCK DRIVERS:					
Class 1	$7.41	a	b	c	
Class 2	7.51	a	b	c	
Class 3	7.61	a	b	c	
Class 4	7.56	a	b	c	
Class 5	7.66	a	b	c	
Class 6	7.71	a	b	c	

CLASSIFICATIONS:
Class 1: Two axle trucks; Helpers
Class 2: Three axle trucks; Two axle ready mix
Class 3: Four axle trucks; Heavy duty trailer-up to 40 tons
Class 4: Three axle ready-mix
Class 5: Four axle ready-mix; Specialized earth moving equipment other than conventional type on-the-road trucks and semi-trailers (including Euclids)
Class 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. $23.60 per week for employees employed over 16 hours and $.42 per hour for employees employed less than 16 hours during the week
b. $23.00 per week for employees employed over 16 hours and $.575 per hour for employees employed less than 16 hours during the week
c. 7 paid holidays: A through F, and Good Friday provided the employee has 31 calendar days' service and is available for work the day preceding and following the holiday

LABORERS (Building Construction):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers; Carpenters' tenders; & Wrecking laborers	$7.50	.50	.45		.10
Jackhammer operators; Mason tenders; Mortar mixers; Pipe layers; Plasterers' tenders; & Power buggy	7.75	.50	.45		.10
Air track operators; Sandblasters; & Wagon drill operators	8.00	.50	.45		.10
Open Air Caisson, Cylindrical Work and Boring Crew:					
Top man	7.50	.50	.45		.10
Bottom man	8.00	.50	.45		.10

SUPERSEDEAS DECISION

STATE: CONNECTICUT
COUNTIES: *See Below
DECISION NUMBER: CT76-2173
DATE: Date of Publication
Supersedes Decision Nos.: CT76-2111 dated September 17, 1976, in 41 FR 40378 and CT76-2112 dated September 17, 1976, in 41 FR 40386
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

*Hartford, Middlesex, New Haven, New London, and Tolland Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS: Hartford Co.: Avon, Berlin, Bloomfield, Bristol, Burlington, Canton, E. Hartford, E. Windsor, Farmington, Glastonbury, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, Southington, S. Windsor, W. Hartford, Wethersfield, & Windsor; Middlesex Co.; New Haven Co.; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Groton, Lebanon, Lyme, Montville, New London, Norwich, Old Lyme, Salem, Sprague & Waterford; & Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Tolland, Vernon, & Willington	$10.34	.65	.96		
Hartford Co.: E. Granby, Enfield, Granby, Hartland, Suffield, & Windsor Locks; Tolland Co.: Somers, Stafford, & Union	9.60	.54	.75		.01
New London Co.: Griswold, Ledyard, Lisbon, N. Stonington, Preston, Stonington, & Voluntown	9.32	.71	.83		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; Cement masons; Finishers; Marble masons; Plasterers; Stonemasons; Terrazzo workers & Tile setters (Building Construction): Hartford Co.: Avon, Bloomfield, Burlington, Enfield, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Marlborough, Rocky Hill, Simsbury,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS (CONT'D): S. Windsor, Suffield, Thompsonville, W. Hartford, Wethersfield, Windsor, Windsor Locks; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	$9.70	.65	.50		
Hartford Co.: Berlin, Kensington, New Britain, Newington, Plantsville, & Southington; New Haven Co.: Meriden	9.60	.50	.50		
Hartford Co.: Canton	9.45	.65	.50		
Middlesex Co.; & New London Co.	9.85	.65	.50		.01
New Haven Co.: Bethany, Branford, E. Haven, Guilford, Hamden, Madison, New Haven, N. Branford, N. Haven, Orange, W. Haven, Woodbridge, part of Milford, & parts of Cheshire	9.65	.65	.50		
New Haven Co.: Ansonia & Derby	9.10	.50	.50	a	
Hartford Co.: Bristol, Marion, & Plainville; New Haven Co.: Beacon Falls, Middlebury, Mixville, Naugatuck, Prospect, Waterbury, & Wolcott	9.55	.65	.55		
New Haven Co.: Devon to the Orange Town line & the Indian River in Milford	9.70	.65	.50		$50.00p/y
BRICKLAYERS (Heavy & Highway Construction): New Haven Co.: Milford	9.00	.65	.50	b	
Hartford Co.; Middlesex Co.; New Haven Co., except Milford; New London Co.; & Tolland Co.	8.95	.65	.50	b	
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers (Building Construction): New Haven Co.: Milford	9.35	.50	.30	c	$50.00p/y
Hartford Co.: Avon, E. Granby, E. Hartland, E. Windsor, Enfield, Farmington, Glastonbury, Granby,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D):					
Hartford, Hartland, Manchester, Rocky Hill, Simsbury, S. Windsor, Suffield, Thompsonville, Unionville, W. Hartford, Wethersfield, Windsor, Windsor Locks; Tolland Co.: Bolton, Ellington, Rockville, Somers, Stafford, Tolland, & Vernon	$9.71	.70	.45		.05
Hartford Co.: Berlin, Bristol, Canton, E. Berlin, Kensington, Marion, Milldale, New Britain, Newington, Plainville, & Southington; Middlesex Co.; New Haven Co.: Meriden, & Wallingford	9.80	.70	.45		.05
New Haven Co.: Bethany, Branford, E. Haven, Guilford, Hamden, Madison, New Haven, N. Branford, N. Haven, S. Chershire, W. Haven, & Woodbridge	9.30	.50	.30		
New Haven Co.: Ansonia, Derby, Orange, Oxford, & Seymour	9.35	.35	.30	d	
New Haven Co.: Beacon Falls, Bethany (to the firehouse), Cheshire (w. of Rte #10 from Southington to Hamden line), Middlebury, Naugatuck, Prospect, Southbury, Waterbury, & Wolcott	9.35	.50	.30	e	.03
New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Griswold, Groton, Lebanon, Ledyard, Lisbon, Lyme, Montville, New London, N. Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington (N. of Rte #184), Voluntown, & Waterford	9.75	.70	.45		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (Heavy & Highway Construction):					
New Haven Co.: Ansonia, Derby, Milford, Orange (W. of Orange Center Road & S. of Rte #1 & W. of the Oyster River), Oxford, & Seymour	9.55	.70	.45	f	$50.00p/y
Hartford Co.; Middlesex Co.; & New Haven Co.: Rem. of Co.; Tolland Co.: Bolton, Ellington, Somers, Stafford, Tolland, & Vernon	9.55	.70	.45	f	.05
New London Co.; Tolland Co.: Andover, Columbia, Coventry, Hebron, Mansfield, Union, & Willington	9.55	.70	.45	f	.03
ELECTRICIANS:					
New Haven Co.: Milford	10.05	.58	1%+.30		½%
Hartford Co.: Berlin, Bristol, New Britain, Newington, Plainville, & Southington	10.17	1.00	1%+.50		½%
Hartford Co.: Suffield, & Thompsonville	8.29	.48	1%+.15	.43	g
Hartford Co.: Hartland; New Haven Co.: Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, & Wolcott	10.30	.82	1%+.60	h	1/8%
Hartford Co.: Rem. of Co.; Middlesex Co.: Cromwell, Middlefield, Middletown & Portland; New London Co.: Bozrah, Colchester, Franklin, Griswold, Lebanon, Ledyard, Lisbon, Montville, N. Stonington, Norwich, Preston, Salem, Sprague, Stonington, & Voluntown; & Tolland Co.	10.55	1.00	1%+.50		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D):					
Middlesex Co.: Centerbrook, Chester, Clinton, Cobalt, Deep River, Durham, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Middle Haddam, Moodus, Old Saybrook, Rockfall & Westbrook; New Haven Co.: Ansonia, Branford, Cheshire, Derby, Guilford, Madison, Meriden, New Haven, N. Branford, N. Haven, Northford, Orange, S. Britain & Wallingford; New London Co.: E. Lyme, Groton, Lyme, New London, Old Lyme, & Waterford	10.06	.90	1%+.40		
ELEVATOR CONSTRUCTORS	10.35	.545	.35	4%+i+j	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.245	.545	.35	4%+i+j	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.175				
GLAZIERS:					
New Haven Co., except Wallingford Hartford Co.; Middlesex Co.; New Haven Co.: Wallingford; New London Co.; & Tolland Co.	9.53 11.41	.95 .84	.47 .55	k l	.01
IRONWORKERS:					
Ornamental; Reinforcing; Structural and Precast concrete erection	11.10	.75	.95	m	.08
LATHERS:					
Hartford Co.: Bristol, Southington; New Haven Co.: Beacon Falls, Bethany, Cheshire, Meriden, Middlebury, Naugatuck, Oxford, Prospect, Southbury, Waterbury, & Wolcott	9.65	.35	.30		.01
Hartford Co.: Avon, Berlin, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS (CONT'D):					
New Britain, Newington, Plainville, Rocky Hill, Simsbury, S. Windsor, W. Hartford, Windsor & Windsor Locks; Middlesex Co.: Cromwell, E. Haddam, E. Hampton, Middlefield, Middletown & Portland; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Groton, Lebanon, Lisbon, Lyme, Montville, Norwich, Old Lyme, Salem, Sprague, & Waterford; Tolland Co.: Andover, Bolton, Columbia, Coventry, Hebron, Mansfield, & Vernon	$9.90	.35	.30		.01
Hartford Co.: Broad Brook, Enfield, Hazardville, Melrose, Suffield, Thompsonville, & Warehouse Point; Tolland Co.: Crystal Lake, N. Somers, Somers, Stafford, Stafford Springs, Staffordville & Union	8.45	.45	.25		.01
Middlesex Co.: Chester, Clinton, Deep River, Durham, Essex, Haddam, Killingworth, Old Saybrook, & Westbrook; New Haven Co.: Ansonia, Branford, Derby, E. Haven, Guilford, Hamden, Madison, Milford, New Haven, N. Branford, N. Haven, Orange, Seymour, Wallingford, W. Haven, & Woodbridge	9.57	.65	.45		.01
New London Co.: Groton	9.25	.45	.55		.01
LEADBURNERS	9.25	.35		n	.01
LINE CONSTRUCTION:					
Linemen	10.42	.70	1%+.50	o	3/8%
Equipment operators	9.69	.70	1%+.50	o	3/8%
Driver groundmen	7.37	.70	1%+.50	o	3/8%
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers	8.65	.50	.65		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Bridge:					
Structural steel	$12.00				
Sandblasting or power tools	13.00				
Spray	15.50				
New Haven Co.: Milford (up to Gulf Street)					
Brush	8.65	.50	.65	p	
Taping	9.04	.50	.65	p	
Spray	10.65	.50	.65	p	
Hartford Co.: Avon Bloomfield, Broad Brook, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Rocky Hill, Poquonock, Simsbury, S. Windsor, Suffield, S. Manchester, W. Hartford, W. Simsbury, Wethersfield, Windsor, & Windsor Locks; Tolland Co.: Andover, Ashford, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Rockville, Stafford, Somers, Tolland, Union, Vernon, & Willington					
Brush; Tapers	9.80	.65	.45		
Paperhangers	10.30	.65	.45		
Riding steel; Steamcleaning; Sandblasting; Tank; Towers; & Hazardous work	10.38	.65	.45		
Spray	12.80	.65	.45		
Hartford Co.: Berlin, Bristol, Burlington, E. Berlin, Forestville, Hartland, Kensington, Milldale, New Britain, Newington, Plainville, Plantsville, Southington, & Unionville; New Haven Co.: Cheshire, Guilford, Madison, Meriden, & Wallingford;					

DECISION NO. CT76-2173

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Middlesex Co.: Chester, Clinton, Cromwell, Deep River, Durham, E. Haddam, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Killingworth, Middlefield, Middletown, Moodus, Norfolk, Portland, Saybrook, & Westbrook					
Brush; Roller; Taping	9.40	.70	.45		
Spray; High	12.00	.70	.45		
Epoxy	9.30	.70	.45		
Paperhanging	9.90	.70	.45		
Work over 60' & Boatswain chair; Open Steel	14.10	.70	.45		
New Haven Co.: Ansonia, Beacon Falls, Derby, Oxford, & Seymour					
Brush	9.25	.35	.80	q	.01
Hand roller; Paperhangers	9.75	.35	.80	q	.01
Structural steel	10.25	.35	.80	q	.01
Spray	12.25	.35	.80	q	.01
New Haven Co.: Bethany, Branford, E. Haven, Hamden, Milford (s. on Gulf Street & n. on North Street), New Haven, N. Branford, N. Haven, Orange, W. Haven, Woodbridge, & Woodmont					
Brush; Sandblasting	8.80	.50	.60		.02
Tapers	9.15	.50	.60		.02
Paperhangers	9.30	.50	.60		.02
Spray	11.55	.50	.60		.02
Structural steel	9.05	.50	.60		.02
New Haven Co.: Middlebury, Naugatuck, Prospect, Roxbury, Southbury, Thomaston, Washington, Waterbury, Watertown, Wolcott, & Woodbury					
Brush	8.05	.35	.60		
Paperhanger	8.30	.35	.60		
Taping	8.30	.35	.60		

DECISION NO. CT76-2173

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
New London Co.: Norwich					
Brush	$8.95	.35	.60		.01
Paperhangers	9.25	.35	.60		.01
Sign	9.33	.35	.60		.01
Taping	9.35	.35	.60		.01
Roller	9.45	.35	.60		.01
Structural steel	9.75	.35	.60		.01
Spraying oil paint	12.10	.35	.60		.01
Spraying epoxy	13.35	.35	.60		.01
PLUMBERS:					
Hartford Co.: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, Windsor Locks; Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	10.10	.62	.62		.20
PLUMBERS; Steamfitters:					
New Haven Co.: Milford	9.99	.75	.70	4%	.01
Hartford Co.: Southington; Middlesex Co.: Durham; New Haven Co.: Cheshire, Meriden, & Wallingford	10.10	.75	.70	r	.03
Hartford Co.: Berlin, Bristol, E. Berlin, Kensington, New Britain, & Plainville	9.40+10%	.75	.70	s	.03

DECISION NO. CT76-2173

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters (CONT'D):					
Middlesex Co.: Clinton, Killingworth, & Westbrook; New Haven Co.: Branford, Derby, E. Haven, Guilford, Hamden, Madison, New Haven, N. Branford, N. Haven, Orange, W. Haven, & Woodbridge	$9.98	.75	.70	t	.02
Middlesex Co.: Essex, Ivoryton, Old Saybrook, & Saybrook; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Griswold, Groton, Lebanon, Ledyard, Lisbon, Lyme, Montville, New London, N. Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington, Voluntown, & Waterford	11.32	.40	.70	u	.025
New Haven Co.: Ansonia, Beacon Falls, Bethany, Naugatuck, Oxford, Prospect, & Seymour	10.45	.83	.70	v	.05
New Haven Co.: Middlebury, Southbury, S. Britain, Waterbury & Wolcott	10.00	.83	.70	v	.05
Hartford Co.: Hartland	9.64	.83	.70	v	.05
ROOFERS:					
New Haven Co.: Ansonia, Beacon Falls, Bethany, Branford, Derby, E. Haven, Guilford, Hamden, Madison, Milford, Middlebury, Naugatuck, New Haven, N. Branford, N. Haven, Orange, Oxford, Seymour, Union City, W. Haven, & Woodbridge	9.65	1.05	.50		
Hartford Co.; Middlesex Co.; New Haven Co.: Cheshire, Meriden, Prospect, Wallingford, & Wolcott; New London Co.; & Tolland Co.					
Composition	8.75	.525	.70	.55	
Slate, Tile	9.25	.525	.70	.55	
SHEET METAL WORKERS	10.95	.50	.66		.07
SPRINKLER FITTERS	11.38	.60	.90		.08

DECISION NO. CT76-2173

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STEAMFITTERS: Hartford Co.: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, & Windsor Locks; Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	$10.27	1.16	.66		.13

DECISION NO. CT76-2173

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:

a. 2 paid holidays: D and Good Friday
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holidays: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately prior to the holiday.
d. 3 paid holidays: C, D, and E
e. 4 paid holidays: B, C, D, and E
f. 3 paid holidays: B, C, and D
g. $30.00 per man per week
h. The last 4 regular working hours prior to Christmas Day shall be a paid half day.
i. 6 paid holidays: A through F
j. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day
l. 9 paid holidays: A thru F, Washington's Birthday, Good Friday and Columbus Day
m. The last 4 hours on Christmas Eve is a paid half day if employee has worked 5 consecutive days prior to Christmas Eve
n. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the day preceding and following the holiday.
o. 9 paid holidays: A through F, Washington's Birthday, Good Friday and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
p. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday
q. 4 paid holidays: B, C, D, and E providing the employee works the day before and the day after the holiday
r. 1 paid holiday: D
s. Paid holidays: D, and the Friday after Thanksgiving is a paid half day, and December 24, provided it falls on a working day, is a paid half day
t. 3½ paid holidays: C, D, E, and the half day Friday after Thanksgiving
u. 1 paid holiday: D
v. 2 paid holidays: B, D & Half day paid holiday the Friday after Thanksgiving and the last working day before Christmas, & Good Friday paid half day.

DECISION NO. CT76-2173

POWER EQUIPMENT OPERATORS (Building construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver; & Setting stone	$10.90	.45	.90	a	.10
Dragline; Fork lift - over 4' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull or drag material regardless of motive power or operation); Kochring scooper loader and/or hoe; Master mechanic; Shovel; & Tower crane	10.80	.45	.90	a	.10
Maintenance engineer	10.70	.45	.90	a	.10
Central mix operator; Coleman loader and screening plant or similar equipment; Combination hoe and loader over 1/4 yd.; Conveyors - regardless of motive power; Front end loader - 3 cy. up to 7 cy.; High pressure portable boiler; Joy drill - limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; Pumpercte machine; Rock boring machine; Vibratory hammer; Welder; & Well digger	10.45	.45	.90	a	.10
Compressor battery operator	9.70	.45	.90	a	.10
Asphalt spreader	10.25	.45	.90	a	.10
Bulldozer; Carry-all operators; Grader; & Scraper pan	10.20	.45	.90	a	.10
Combination hoe and loader machine Concrete mixer - 5 bags or over; Front end loader under 3 cy.; Powerstone spreader	10.15	.45	.90	a	.10
Air and steam valve	9.45	.45	.90	a	.10
Compressor; Generator; Pump and Well point; Welding machine	9.35	.45	.90	a	.10

DECISION NO. CT76-2173

POWER EQUIPMENT OPERATORS (Building Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Cont'd):					
Fork lift not over 4'; & Steam Jenny	$10.05	.45	.90	a	.10
Mechanical heater	9.20	.45	.90	a	.10
Roller	9.95	.45	.90	a	.10
Dinky machine; Power pavement breaker	9.80	.45	.90	a	.10
Fireman (High pressure)	9.00	.45	.90	a	.10
Oiler	8.55	.45	.90	a	.10
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
Apprentice Oilers (Newly hired on Backhoes on Tracks)	5.80	.45	.90	a	.10
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day					
FOOTNOTE: a. 7 paid holidays: A through F and Good Friday					
LABORERS (Heavy and Highway Construction):					
Laborers	$7.50	.50	.45		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operator; Fence & guard rail erectors; Form setters; Hand operated concrete vibrator operators; Hand operated vibratory compactor operators; Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic Gas & Electric drill operators; Powderman & wagon drill operators	7.75	.50	.45		.10
Air track operators; Block pavers; Curb setters	8.00	.50	.45		.10
Blasters	8.25	.50	.45		.10

DECISION NO. CT76-2173

POWER EQUIPMENT OPERATORS (Heavy and Highway construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Class 1	$10.93	.45	.90	a	.10
Class 2	10.79	.45	.90	a	.10
Class 3	10.47	.45	.90	a	.10
Class 4	10.28	.45	.90	a	.10
Class 5	10.14	.45	.90	a	.10
Class 6	9.96	.45	.90	a	.10
Class 7	9.76	.45	.90	a	.10
Class 8	8.92	.45	.90	a	.10
Class 9	9.02	.45	.90	a	.10
Class 10	9.36	.45	.90	a	.10
Class 11	9.69	.45	.90	a	.10
Class 12	8.58	.45	.90	a	.10
Class 13	9.30	.45	.90	a	.10
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					
Apprentice Oilers (Newly hired on Backhoes on Tracks)	5.80	.45	.90	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F, and Good Friday

CLASSIFICATIONS:
Class 1: Erecting and handling structural steel; Front end loader (7 cy. or over)
Class 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; Lighter derrick; Paver (concrete); Derrick (stiff leg and guy); Steel pile sheeting; Koehring loader (skooper); Master mechanic
Class 3: Drill (Joy heavy weight champion or equivalent); Side boom; loader (Euclid); Mucking machine; Pumpcrete; Rock and earth boring machine; Post hole digger; Well digger; & Hammer (vibratory); Central mix; Combination hoe & loader (over 1/4 yd)
Class 4: Asphalt spreader
Class 5: Front end loader (3 yds. or over); Grader; Power stone spreader; Combination hoe and loader
Class 6: Asphalt roller; Bulldozer; Carryall; Maintenance engineer; Concrete mixer (5 bags and over); Welder
Class 7: Front end loader (under 3 yds.); Roller; Power chipper; Fork lift; Finishing machine; Asphalt plant; Power pavement breaker; Dinky machine
Class 8: Compressor; Pump
Class 9: Fireman (high pressure)
Class 10: Well point system
Class 11: Compressor battery
Class 12: Oiler
Class 13: Batch plant; Bulk cement plant

DECISION NO. CT76-2173

TRUCK DRIVERS (Building, Heavy, and Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
TRUCK DRIVERS:					
Class 1	$7.41	a	b	c	
Class 2	7.51	a	b	c	
Class 3	7.61	a	b	c	
Class 4	7.56	a	b	c	
Class 5	7.66	a	b	c	
Class 6	7.71	a	b	c	

CLASSIFICATIONS:
Class 1: Two axle trucks; Helpers
Class 2: Three axle trucks; Two axle ready mix
Class 3: Four axle trucks; Heavy duty trailer-up to 40 tons
Class 4: Three axle ready-mix
Class 5: Four axle ready-mix; Specialized earth moving equipment other than conventional type on-the-road trucks and semi-trailers (including Euclids)
Class 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. $23.60 per week for employees employed over 16 hours and $.42 per hour for employees employed less than 16 hours during the week
b. $23.00 per week for employees employed over 16 hours and $.575 per hour for employees employed less than 16 hours during the week
c. 7 paid holidays: A through F, and Good Friday provided the employee has 31 calendar days' service and is available for work the day preceding and following the holiday

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building Construction):					
Laborers; Carpenters' tenders; & Wrecking laborers	$7.50	.50	.45		.10
Jackhammer operators; Mason tenders; Mortar mixers; Pipe layers; Plasterers' tenders; & Power buggy	7.75	.50	.45		.10
Air track operators; Sandblasters; & Wagon drill operators	8.00	.50	.45		.10
Open Air Caisson, Cylindrical Work and Boring Crew:					
Top man	7.50	.50	.45		.10
Bottom man	8.00	.50	.45		.10

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Dade
DECISION NUMBER: FL76-1141 DATE: Date of Publication
Supersedes Decision No. FL75-1085 dated September 5, 1975 in 40 FR 41363
DESCRIPTION OF WORK: Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	5.00				
Carpenters	6.00				
Cement finishers	5.75				
Electricians	11.25				
Form setters	4.76				
Grade checkers	4.75				
Ironworkers:					
Reinforcing	9.75	.75	.58		.08
Structural	5.00				
Laborers:					
Air tool operators	6.60	.75	.30		
Asphalt rakers	5.13				
Concrete laborers	4.50				
Pipelayers	4.50				
Powdermen	4.50				
Unskilled	4.05				
Truck drivers	4.05				
Welders	5.00				
POWER EQUIPMENT OPERATORS:					
Asphalt distributor	5.12				
Asphalt paving machine	5.30				
Asphalt mixer	5.30				
Asphalt plant	4.97				
Backhoe	6.08				
Bulldozer	5.50				
Concrete paving machine	5.25				
Crane	5.78				
Drilling machine	5.00				
Gradall	5.00				
Loader:					
Under 1 cu. yd.	5.00				
1 cu. yd or over	5.50				
Mechanic	6.08				
Motor grader	5.75				
Oiler	4.75				
Piledriver	6.00				
Roller	5.09				
Scraper	5.75				
Tractor	4.74				
Trenching machine	4.50				

STATE: Michigan COUNTY: Kent
DECISION NUMBER: MI76-2171 DATE: Date of Publication
Supersedes Decision No. MI76-2049 dated April 16, 1976 in 41 FR 16390
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Construction.

DECISION NO MI76-2171

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers & Stonemasons	$7.70	.25	.25		.04
Carpenters	6.23				
Cement Masons	5.82				
Electricians	9.62	.40	1%+.35		.01
Elevator Constructor	8.12	.395	.26	2%+a&b	.02
Glaziers	6.75	.28	.20		
Ironworkers:					
Structural	6.43				
Reinforcing	7.60	.50	.50		.02
Laborers	5.81	.40	.30	.55	.04
Lathers	8.30	.44	.10		.01
Painters:					
Brush & Structural Steel	6.70	.25	.20	.10	
Tapers	6.95	.25	.20	.10	
Plasterers	8.39	.32	.18		.03
Plumbers & Steamfitters	9.59	.38	.35		
Roofers	5.14				
Sheet Metal Workers	7.50	.42+c	.30	.52	
Soft Floor Layers	7.00	.45	.40		.01
Sprinkler Fitters	9.10	.40	.60	.50	.07
Terrazzo Workers	7.05	.25	.25		
Terrazzo Workers' Helpers	6.00				
Tile Setters	7.05	.25	.25		
Tile Setters' Helpers	5.66				
Truck Drivers	5.80				
POWER EQUIPMENT OPERATORS:					
Asphalt Paver	6.85				
Air Compressor	7.55				
Backhoe	5.20				
Bulldozer	6.82				
Crane	8.70	.50	.55		.07
Finishing Machine	5.25				
Front End Loader	5.00				
Grader	5.00				
Pumps	5.31				
Roller	6.00				
Tractor	5.42				
Trenching Machine	6.00				

FOOTNOTES:
a. - 6 Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.
b. - Employer contributes 4% or regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years & 2% for employee in business less than 5 years.
c. - $5.00 per month - Life Insurance

LC-ZONE II

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman; Heavy Equipment operator	$7.88	.35	1%	a	.25%
Cable Splicer	8.21	.35	1%	a	.25%
Combination Digger operator; Tractor operator Groundman:					
1st 6 Months	5.73	.35	1%	a	.25%
Over 6 Months	6.18	.35	1%	a	.25%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 Months	4.99	.35	1%	a	.25%
Over 6 Months	5.43	.35	1%	a	.25%
Combination Winch Truck Driver Groundman:					
1st 6 Months	4.55	.35	1%	a	.25%
Over 6 Months	5.19	.35	1%	a	.25%
Combination Truck Driver Groundman	4.40	.35	1%	a	

aFOOTNOTE: 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO MI76-2171

MICH-7-LAB

LABORERS - HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$5.41	.35	.30		.04
CLASS B	5.56	.35	.30		.04
CLASS C	5.66	.35	.30		.04
CLASS D	5.53	.35	.30		.04
CLASS E	5.63	.35	.30		.04
CLASS F	5.73	.35	.30		.04
CLASS G	5.91	.35	.30		.04

CLASS A
Laborers

CLASS B
Plaster Tenders, Material Mixers, Operators of Portable Mixers, Air, Electric or Gasoline Tools & Motor Driven Buggies & Swing Scaffolds.

CLASS C
Jackhammer Operators

CLASS D
Signal Men & Top Men on Sewer & Caisson Construction (Open Cut)

CLASS E
Windlass Operator (On Caisson Work)

CLASS F
Crocklayers or Pipelayers, Caisson Workers

CLASS G
Top Men on Chimneys or Towers over 30' in Height

DECISION NO MI76-2171

MICH-3-PEO

POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A Crane with boom & jib or leads 220' or longer	$9.70	.50	.55		.05
CLASS B Crane with boom & jib or leads 140' or longer up to 220', tower cranes, gantry cranes, whirley derrick	9.45	.50	.55		.05
CLASS C Regular equipment operator, crane, stiff leg derrick, scrapper, dozer, grader, front end loader, hust, job mechanic & head grease man	9.20	.50	.55		.05
CLASS D Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	9.00	.50	.55		.05
CLASS E Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" & grease man	7.95	.50	.55		.05
CLASS F Fireman, oiler or heater operator	7.25	.50	.55		.05

DECISION NO MI76-2171 MICH.-9-PEO-U

POWER EQUIPMENT OPERATORS UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$9.79	.55	.75		.05
CLASS II	9.66	.55	.75		.05
CLASS III	8.93	.55	.75		.05
CLASS IV	8.36	.55	.75		.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cpa.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or lerger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling rig, slip form paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submerisble pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H. p. or over) oiler & firemen

SUPERSEDEAS DECISION

STATE: Mississippi COUNTIES: Forrest and Jones
DECISION NUMBER: MS76-1142 DATE: Date of Publication
Supersedes Decision No. MS75-1020 dated February 7, 1975 in 40FR 5966.
DESCRIPTION OF WORK: Building construction (excludes single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Bricklayers	7.10					
Carpenters	6.49					
Cement masons	6.25					
Electricians	8.05					
Glaziers	5.00					
Ironworkers, structural & ornamental	7.60	.35	.35		.04	
Ironworkers, reinforcing	8.65	.35	.35		.04	
Laborers:						
Laborers	3.22					
Air tool op.	4.05					
Mortar mixers	4.65	.15	.15			
Painters, brush	5.25					
Plasterers	6.50					
Plumbers and pipefitters	7.75					
Roofers	4.50					
Sheet metal workers	5.00					
Soft floor layers	5.00					
Tile setters	6.00					
Truck drivers	3.22					
POWER EQUIPMENT OPERATORS:						
Backhoe	5.00					
Bulldozer	4.74					
Cranes, derricks and draglines	6.94					
Motor graders	4.25					
Drilling machine	5.90	.25	.25			
Tractor	4.55					

SUPERSEDEAS DECISION

STATE: Tennessee COUNTIES: *See below
DECISION NUMBER: TN76-1140 DATE: Date of Publication
Supersedes Decision No.: TN75-1074 dated August 8, 1975 in 40 FR-33645
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

Counties: Dyer, Gibson, Lake, Lauderdale, Obion, and Weakley.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning & Heating mechanics	5.10				
Bricklayers	4.92				
Carpenters	4.09				
Cement masons	4.11				
Electricians	5.10				
Drywall finishers	4.46				
Drywall hangers	4.34				
Insulation Installers	3.50				
Ironworkers, Structural & Ornamental	3.50				
Laborers:					
Laborers	2.50				
Mason tenders	3.28				
Mortar mixers	2.50				
Painters, brush	4.44				
Plumbers	6.00				
Roofers	4.51				
Sheet metal workers	6.00				
Soft floor layers	7.00				
Tile setters	5.00				
Truck drivers	2.75				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.00				
Bulldozers	8.00				
Graders	3.75				
Rollers	3.50				
Paver	3.75				
Tractor	4.00				

STATE: Texas COUNTIES: Bee, Kleberg & Nueces
DECISION NO.: TX76-4193 DATE: Date of Publication
Supersedes Decision No. TX76-4125, dated July 23, 1976, in 41 FR 30563.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

DECISION NO. TX76-4193

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.29	.50	.50		
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS:					
Bee County	5.50				
Kleberg & Nueces Counties	8.31	.23	.30		.04
CARPENTERS:					
Carpenters	7.49	.27	.30		.03
Millwrights	9.05				1%
CEMENT MASONS	8.05				
ELECTRICIANS:					
Electricians	9.40	.40	1%		1/2%
Cable splicers	9.525	.40	1%		1/2%
GLAZIERS (excluding Kleberg Co.)	5.34		.20		
IRONWORKERS	6.84	.55	.80		.04
LABORERS:					
GROUP 1 - General laborer (any work not specifically defined herein)	4.60	.28	.10		
GROUP 2 - Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipelayers, lathers, finish carpenters, slip form operators, scaffolding water proofers, cement finishers; Power tool operators - includes paving buster, jackhammer, chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps and any and all power driven equipment operated by laborers	4.80	.28	.10		
GROUP 3 - Pipe wrappers & dopers	4.95	.28	.10		
GROUP 4 - Gunnite nozzlemen; Powderman or blaster	5.05	.28	.10		
LATHERS	7.75	.30	.20	1.00	.01
LINE CONSTRUCTION:					
Lineman	9.40	.40	1%		1/2%
Cable splicer	9.525	.40	1%		1/2%
Groundman (1st year)	4.70	.40	1%		1/2%
Groundman	5.23	.40	1%		1/2%
MARBLE SETTERS	$ 7.68		.15		.02
MARBLE SETTERS' HELPERS	5.37				
PAINTERS:					
Brush	7.18	.25	.25		2/10%
Spray	7.58	.25	.25		2/10%
Sign	7.43	.25	.25		2/10%
PLASTERERS	9.35				.01
PLUMBERS & STEAMFITTERS	8.565	.335	.35		.035
ROOFERS:					
Roofers; Kettleman; Waterproofers; Deckmen	6.325		.20		
SHEET METAL WORKERS	8.27	.23	.25		.01
SOFT FLOOR LAYERS	7.49	.27	.30		.03
SPRINKLER FITTERS	10.90	.60	.90		.08
TERRAZZO WORKERS	7.68		.15		.02
TERRAZZO WORKERS' HELPERS:					
Terrazzo helpers	5.37				
Floor machine operators	5.57				
Base machine operators	5.72				
TILE SETTERS	7.68		.15		.02
TILE SETTERS' HELPERS	5.37				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX76-4193

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.,
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 6.65	.18	.45		
GROUP 2	5.825	.18	.45		
GROUP 3	5.225	.18	.45		
GROUP 4	5.375	.18	.45		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Air Compressor over 125 CFM, gasoline or diesel powered; Asphalt Plant Mixer; Back Filler; Back Hoe; Batch Plant (concrete); Blade Grader; Boring Machine (foundation, horizontal or waterwell); Bull Clam; Bull Dozer; Cableway; Clamshell; Crane, power operated (all types); Crusher; Derrick, power operated (all types); Dragline; Elevating Grader; Elevator, outside the building; Euclids, and similar type machines; Forklift (on construction except in warehouses); Grade-All; Hi-Lift; Hoist (2 drums or more); Locomotive and Switch Engines; Mixer (paving); Mixer (concrete); Pile Driver; Pumps (2) over 3 inches; Pump-crete Machine; Push Cat or Pull Cat; Roller (pneumatic, flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench Machine, Tugboat (on construction); Turn-a-pulls and similar machines; Welding Machines (7 to 13) other than electric; Wellpoint; Winch Truck; Mechanic; Lubrication Engineer (required on grease racks and service trucks); All other equipment of similar nature coming within the Heavy Equipment Class when power operated

GROUP 2 - Air Compressor (1 or 2) 125 CFM or less, gasoline or diesel powered; Blade Grader (towed); Conveyor; Elevator, inside the building, permanent type; Fireman (required on any boiler, steam locomotive, steam crane, etc.); Flex-plane; Form Grader; Generator (gas, diesel over 1500 watts); Hoist (1 drum); Mixer (less than 14 cu. ft.); Pulsometer; Pumps (1) over 3 inches; Pumps (1 or 2) 3 inches or under; Roller (towed); Tractor (wheel type); Driver-oiler (required on tractor or truck cranes on which controls of crane and those of tractor or truck are operated from different seats or stations, mobile type grade all, etc.); Wagon Drill; Welding Machine (3 to 6) other than electric; All other equipment of similar nature coming within the Light Equipment Class when power operated

GROUP 3 - Oilers, 1st year

GROUP 4 - Oilers, 2nd year

SUPERSEDEAS DECISION

STATE: Texas COUNTY: El Paso
DECISION NO.: TX76-4194 DATE: Date of Publication
Supersedes Decision No. TX76-4087, dated May 21, 1976, in 41 FR 21151.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 7.46	.50	1.17(a)		.03
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS; BLOCKLAYERS; ROCK MASONS; STONEMASONS	7.25	.48	.20		.05
CARPENTERS:					
Carpenters	7.47	.55			.02
Millwrights	7.90	.55			.02
Stationary radial arm power saw operator	7.63	.55			.02
Floor layers	7.47	.55			.02
CEMENT MASONS	6.36	.48			.03
DRYWALL:					
GROUP 1 - Tapers	6.68	.30	.10		.02
GROUP 2 - Ames tools	6.90	.30	.10		.02
GROUP 3 - Texture spray	7.38	.30	.10		.02
ELECTRICIANS:					
Electricians	8.85	.30	1%		1/2%
Cable splicers	9.10	.30	1%		1/2%
ELEVATOR CONSTRUCTORS	8.17	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	6.59	.30	.10		.02
IRONWORKERS	7.90	.55	.80		.10
LABORERS:					
GROUP 1 - Powderman or blasterer	5.81	.38	.35		
GROUP 2 - Outside wagon drill; wagon drill tenders; miner	5.56	.38	.35		
GROUP 3 - Cement gun or gunite; mason tender; mortar mixer; machine man; track man; chuck tender	5.31	.38	.35		
GROUP 4 - Pipelayer, main sewer and drainage	5.19	.38	.35		
GROUP 5 - Jackhammer operator, asphalt raker; kettlemen; asphalt or pot man	5.06	.38	.35		
GROUP 6 - Common	4.91	.38	.35		
LATHERS	8.14				.01

DECISION NO. TX76-4194

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman-Technician; Equipment operators	$ 8.85	.30	1%		1/2%
Cable splicers	9.10	.30	1%		1/2%
Groundman	75%JR	.30	1%		1/2%
Groundman (less than 6 months)	50%JR	.30	1%		1/2%
MARBLE MASONS	6.98		.20		.04
PAINTERS:					
GROUP 1 - Brush & roller, paperhanger; tapers	6.78	.30			.02
GROUP 2 - Steel after erection, steam cleaning, power driven tools	7.19	.30			.02
GROUP 3 - Spray, Sandblasting, waterblasting & swing stage, stripping machine	7.485	.30			.02
GROUP 4 - Ames tools	7.00	.30			.02
GROUP 5 - Water tanks, smoke stacks, tower from 70 - 100 ft.	8.14	.30			.02
PLASTERERS	7.66	.48			.01
PLUMBERS & STEAMFITTERS	8.49	.43	.40		.05
ROOFERS:					
Roofers; Waterproofers; Pipewrappers	5.60				
SHEET METAL WORKERS	8.855	3%+.51	.35		.025
SOFT FLOOR LAYERS	6.53	.30	.10		.02
SPRINKLER FITTERS	10.90	.60	.90		.08
TERRAZZO WORKERS	6.98		.20		.04
TERRAZZO WORKERS' HELPERS	4.30		.20		
TILE SETTERS	6.98		.20		.04
TILE SETTERS' HELPERS	4.30		.20		
TRUCK DRIVERS:					
GROUP 1 - Up to and including 2 tons	3.50	.26			
GROUP 2 - Flat bed dump trucks, mechanically	3.60	.26			
GROUP 3 - Tank trucks, up to 2500 gallons	3.50	.26			

DECISION NO. TX76-4194

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
GROUP 4 - Standard dump trucks, up to and including 4 cu. yds.	$ 3.60	.26			
GROUP 5 - Dump trucks, over 4 cu. yds.; Trucks over 4 tons including transit mix, all semitruck, etc.; Lowboy	3.75	.26			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - Includes $0.07 contribution to Occupational Health Fund
b - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
c - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independance Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX76-4194

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 6.39	.35	.40		.10
GROUP 2	6.97	.35	.40		.10
GROUP 3	7.06	.35	.40		.10
GROUP 4	7.11	.35	.40		.10
GROUP 5	7.19	.35	.40		.10
GROUP 6	7.43	.35	.40		.10
GROUP 7	7.59	.35	.40		.10
GROUP 8	7.06	.35	.40		.10
GROUP 9	7.29	.35	.40		.10
GROUP 10	7.59	.35	.40		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Fireman, Oiler; Mechanic, Grease Truck and Welder's Helpers; Screedman, Pneumatic roller towed by farm type tractor or truck; Scale Operator and such as bin-a-batch; Rubber-tired farm type tractors and tractors under 35 HP without attachments
GROUP 2 - Air Compressors, Power Plants, pumps and welding machines; Concrete mixers, under 1 yd. & concrete batch plants, under 1 yd., gunnite & pumperete machine, mechanical bull floats, spreading & finishing machines. Screening Plants. Drilling machines, Diamond, rotary, core & cable drilling; Well under 6". Hoists, scoopmobiles, A-frame Air tugger; Hydrolift, Hydrocranes, winch truck. Loaders: Elevating, belt type loader, front end loader (under 2 yds.) & over head loaders; forklift & lumber staker on construction job site. Motor man & Industrial Locomotive. Tractors under 35 HP with attachments
GROUP 3 - Concrete mixers 1 yd. & over and batch plants 1 yd. & over, single drum paving machines, Crushing plant. Drilling Machine, 6" & over; Front end loaders, 2 yds. & over; Paving: Asphalt plants, boiler or retort heater, distributor, lay down machine, pug mill, breakdown & tandem rollers. Steam Engineer. Trenching Machines. Patrol, rough, not required to blue top or finish
GROUP 4 - Tractor Equipment: Athey & Barber Green Loader, Bulldozer, DW10, DW20, DW21, Dumor, Elevating Grader; Euclid, Highlander, Scraper, Traxcavator, Turnapull, Turnarocker & Tractors 35 HP & up & farm type tractors with backhoe & shovel type attachments
GROUP 5 - Concrete paving machines, double drum. Catcranes, Hysters, Cherry Pickers, Attachments cranes, side & swing boom tractors; Mechanic, Welder, Patrol, Finish; Grease Truck Operator (Head Oiler). Building Hoist, 1 drum. Concrete Pump (Snorkle Type Trailer Mounted)
GROUP 6 - Shovel, Backhoe, clam & dragline 3/4 yds. & under; Cranes 25 tons & under; Building Hoist, 2 drums & up. Concrete pump (Snorkle Type Truck Mounted)
GROUP 7 - Guy & stiff leg derrick, Piledrivers; Crawler or skid rig, Shovel, Backhoe, clam & dragline over 3/4 yds.; Crane over 25 tons. Pecco type cranes
GROUP 8 - Refrigeration, slusher, Jumbo form operators
GROUP 9 - Mucking machines
GROUP 10 - Mine hoists

NOTICES

SUPERSEDES DECISION

STATE: Texas COUNTIES: Galveston & Harris
DECISION NO.: TX76-4195 DATE: Date of Publication
Supersedes Decision No. TX76-4151, dated September 24, 1976, in 41 FR 42149.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.00	.70	.70		.06
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	10.13	.38	.50		.05
CARPENTERS:					
Carpenters	9.40	.65	.60		.05
Millwrights	9.76	.65	.60		.05
Piledrivermen	9.40	.65	.60		.05
CEMENT MASONS:					
Harris County	9.25	.49	.42		.05
Galveston County	9.25	.49	.42		
ELECTRICIANS:					
Harris County	11.20	.40	5%		.04
Galveston County	11.34	.40	1%+.40		.06
ELEVATOR CONSTRUCTORS	9.76	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.07	.60	.425		.01
IRONWORKERS	9.63	.55	.85		.075
LABORERS:					
GROUP 1 - Common	6.93	.28	.40		.02
GROUP 2 - Air tool operator (jackhammer-vibrator); Mason tenders; Pipelayers (concrete & clay); Sandblasters; Power buggy operator	7.105	.28	.40		.02
GROUP 3 - Lather tender; Mortar mixers; Plaster tenders & hod carriers	7.205	.28	.40		.02
GROUP 4 - Well driller	7.48	.28	.40		.02
GROUP 5 - Well driller tender	7.055	.28	.40		.02
GROUP 6 - Blaster, powderman	7.355	.28	.40		.02
LATHERS (Harris County only)	9.92	.50	.35		.02
LINE CONSTRUCTION:					
Lineman & cable splicer	11.26	.40	1%		1/2%
Groundmen (1st 6 mos.)	3.94	.40	1%		1/2%
Groundmen (2nd 6 mos.)	4.73	.40	1%		1/2%
Groundmen	6.53	.40	1%		1/2%

DECISION NO. TX76-4195

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Harris County	$ 9.51				
Galveston County	8.41				
MARBLE MASONS ' HELPERS	7.15				
PAINTERS:					
East Harris County:					
GROUP 1 - All brush painting, hand rolling and all other work other than that below	10.46				
GROUP 2 - All pneumatic and electric tools and steam cleaning	10.815				
GROUP 3 - All tape and float on drywall	10.585				
GROUP 4 - All paper and vinyl hanging	10.71				
GROUP 5 - All spray painting, sandblasting & waterblasting	10.855				
GROUP 6 - Steeple jack work, hot materials	11.12				
Remainder of Harris County:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	9.295	.365	.35	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	9.67	.365	.35	.40	.04
GROUP 3 - Tape, float & drywall	9.42	.365	.35	.40	.04
GROUP 4 - Steeple jack work, hot materials	9.92	.365	.35	.40	.04
Galveston County:					
GROUP 1 - Painters on new work	9.00	.55	.45	.665	.02
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	9.25	.55	.45	.665	.02
GROUP 3 - Painters on rework & repaint	8.245	.55	.45	.665	.02
PIPEFITTERS:					
Harris County and that part of Galveston County west of the Trinity River	10.35	.45	.60		.045

DECISION NO. TX76-4195

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS (CONT'D):					
That part of Galveston County east of the Trinity River:					
Commercial work up to $50,000	$10.12	.445	.50		.03
Commercial work $50,000 & over	10.55	.445	.50		.03
PLASTERERS	9.70	.52	.30		.02
PLUMBERS:					
Harris County	10.42	.50	.60		.10
Galveston County:					
Commercial work up to $50,000	10.12	.445	.50		.03
Commercial work $50,000 & over	10.55	.445	.50		.03
ROOFERS:					
Roofers	8.49	.20	.25	.25	.03
Kettlemen	7.92	.20	.25	.25	.03
Helpers	5.52	.20	.25	.25	.03
SHEET METAL WORKERS:					
Harris County	9.80	.275	.525	.32	.06
Galveston County	8.75	.15	.25		.10
SOFT FLOOR LAYERS	9.17	.35	.45		.09
SPRINKLER FITTERS	10.90	.60	.90		.08
TERRAZZO WORKERS:					
Harris County	9.51				
Galveston County	8.41				
TERRAZZO WORKERS' HELPERS:					
Terrazzo workers' helpers	7.15				
Terrazzo floor machinemen	7.30				
Terrazzo base machinemen	7.45				
TILE SETTERS:					
Harris County	9.51				
Galveston County	8.41				
TILE SETTERS' HELPERS	7.15				
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons; wash, grease, fireman, fuel pump operator when used on construction jobs	7.84				
GROUP 2 - 1½ thru 2½ tons; dump truck less than 7 yds.	8.23				
GROUP 3 - Over 2½ tons; farm tractors; fork lifts, floats	8.45				

DECISION NO. TX76-4195

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
GROUP 4 - Euclids (not self-loading	$ 8.61				
GROUP 5 - Warehousemen	8.10				
GROUP 6 - Material checkers; pick-up drivers	9.14				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates
b - Paid Holidays A thru F

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

NOTICES

DECISION NO. TX76-4195

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.87	.35	.65		.06
GROUP 2	8.38	.35	.65		.06
GROUP 3	7.84	.35	.65		.06
GROUP 4	7.66	.35	.65		.06

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick - power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more, Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel Driven Welding Machines, 7 or more; Pumperete Machine Operator; Turnapulls; DW-10 Caterpillar, S-18 Euclid and similar Tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader, Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel Driven Welding Machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or Diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A Light Equipment Operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Harrison
DECISION NO.: TX76-4196 DATE: Date of Publication
Supersedes Decision No. TX76-4042, dated February 13, 1976, in 41 FR 7013.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.38	.325	.685		.025
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.75		.25		
CARPENTERS	6.00				
CEMENT MASONS	7.50		.25		
ELECTRICIANS:					
Electricians	8.30	.40	1%		1/4%
Cable splicers	8.70	.40	1%		1/4%
GLAZIERS	5.00				
IRONWORKERS	7.65	.30	.35		.04
LABORERS:					
Laborers	3.08				
Mason tenders	3.25				
LATHERS	3.20				
PAINTERS:					
GROUP 1 - Journeyman painters, paperhangers, hand rollers & tools used for cleaning	5.50				
GROUP 2 - Window jack or window sill; Sand tape & floating	5.625				
GROUP 3 - Swing stage; Spray & sand blasting; Sign painting; Steel swing stage, boatswain's chair, brush	6.00				
GROUP 4 - Steam cleaning, buffing, burners and torches	7.25				
GROUP 5 - Steel brush	5.75				
GROUP 6 - Steel swing stage, boatswain's chair, spray & sandblasting	8.00				
PLASTERERS	8.75		.25		
PLUMBERS & PIPEFITTERS	7.20		.30		.02
ROOFERS	3.25				
SHEET METAL WORKERS	9.065	3%+.45	.66		.055
SPRINKLER FITTERS	10.90	.60	.90		.08
TERRAZZO WORKERS	6.00				
TILE SETTERS	6.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX76-4196

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 7.515	.40	.75		.10
GROUP 2	8.30	.40	.75		.10
GROUP 3	8.70	.40	.75		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers, less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; All other equipment of similar nature coming under the Light Equipment Classification, when power operated

GROUP 3 - Ford Tractor or like with any attachment (except blade and mower on rear); Drilling Machine (all types); Scoopmobile; Hoists, two drum or more; Forklifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixers (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Classification, when power operated

STATE: Texas COUNTY: Lubbock
DECISION NO.: TX76-4197 DATE: Date of Publication
Supersedes Decision No. TX76-4110, dated July 2, 1976, in 41 FR 27652.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.70	.50	.30		.07
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.85		.30		.03
CARPENTERS	7.97	.38	.40		.01
CEMENT MASONS	6.75				
ELECTRICIANS:					
Electricians	9.25	.40	1%		1/10%
Cable splicers	9.50	.40	1%		1/10%
IRONWORKERS:					
Structural; Ornamental; Reinforcing	7.93	.55	.85		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	8.055	.55	.85		.10
LABORERS:					
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all construction laborers except those named below	4.725	.275	.20		
GROUP 2 - Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete & clay & all non-metallic pipe); handling, laying & cleaning pumpcrete pipe	5.00	.275	.20		
GROUP 3 - Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders	4.925	.275	.20		
GROUP 4 - Wagon drill	5.075	.275	.20		
GROUP 5 - Blasters & powder make-up men	5.325	.275	.20		

DECISION NO. TX76-4197

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 6.75	.20			.01
LINE CONSTRUCTION:					
Linemen	9.25	.40	1%		
Operators	80%JR	.40	1%		
Groundmen (more than 1 year experience)	55%JR	.40	1%		
Groundmen (less than 1 year experience)	50%JR	.40	1%		
Flat bed truck operator	70%JR	.40	1%		
PAINTERS:					
Brush	5.85	.30	.20		.04
Spray	6.50	.30	.20		.04
PLASTERERS	7.00				
PLUMBERS & STEAMFITTERS	8.81	.39	.40		.04
ROOFERS	3.50				
SHEET METAL WORKERS	9.43	.35	.30		.10
SOFT FLOOR LAYERS	5.85	.30	.20		.04
SPRINKLER FITTERS	10.90	.60	.90		.08
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX76-4197

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 6.75	.30	.50		.10
GROUP 2	7.65	.30	.50		.10
GROUP 3	8.05	.30	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 feet of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractorvators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressor & Air Togger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

SUPERSEDEAS DECISION

STATE: West Virginia
LOCATION: State of West Virginia excluding the Counties of Berkeley Jefferson Morgan, Nicholas & Preston
DECISION No.: WV76-3286 DATE: Date of Publication
Supersedes Decision No. WV75-3106, dated December 12, 1975, in 40 FR 58060, and No. WV75-3107, dated December 5, 1975, in 40 FR 57061
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See Heavy and Highway Construction General Wage Determination for all work in connection with the clearing and grading of the site, also all paving incidental to the project, and all incidental water lines and sewers utilities to within 5 feet of the building line, when such work is let as a separate contract by the owner or as a subcontract by the prime contractor).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
AREA 1	$10.77	.59	.89		.03
AREA 2	11.10	.60	.70		
AREA 3	11.05	.50	.70		.03

AREAS COVERED BY ASBESTOS WORKERS

AREA 1 - Hampshire and Hardy Counties.

AREA 2 - Barbour, Brooke, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Taylor, Tucker, Tyler and Wetzel Counties.

AREA 3 - Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Upshur, Wayne, Webster, Wirt, Wood and Wyoming Counties.

BOILERMAKERS:					
AREA 1	9.40	.75	1.00	1 40	.02
AREA 2	9.815	7.5%	7%		.01

AREAS COVERED BY BOILERMAKERS

AREA 1 - Barbour, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Ohio, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood and Wyoming Counties.

AREA 2 - Hancock County.

DECISION NO. WV76-3286

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TERRAZZO WORKERS & TILE LAYERS:					
AREA 1	9.79		.40		
AREA 2	9.25				
AREA 3	8.20				
AREA 4	9.92	.65	.75		
AREA 5					
Bricklayers & Stone Masons	11.04	30	.30		
Marble Masons, Terrazzo Workers & Tile Layers	9.95	.30	.30		
AREA 6					
Bricklayers & Stone Masons	9.65	.60			
Marble Masons, Terrazzo Workers & Tile Layers	9.15	.60			
AREA 7					
Bricklayers & Stone Masons	9.63	.60	6%		.02
Tile Layers	9.48	.60	6%		.02
AREA 8					
Bricklayers, Stone Masons & Marble Masons	9.93	.50	.25		.02
Tile Setters & Terrazzo Workers	6.18	.50	.25		.02
AREA 9	8.55	.30	.30	.30+a	
AREA 10	9.65	40			
AREA 11					
Bricklayers & Stone Masons	9.40	.30	.25		

DECISION NO. WV76-3286

AREAS COVERED BY BRICKLAYERS, STONEMASONS ETC

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Barbour, Grant, Hardy, Pendleton, Pocahontas, Randolph, Tucker & Webster Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, Putnam, Raleigh & Summers Counties.

AREA 5 - Cabell, Lincoln, Mason, Mingo & Wayne Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt & Wood Counties.

AREA 7 - Marshall, Ohio, Tyler & Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

AREA 9 - Doddridge, Gilmer, Harrison, Lewis, Taylor & Upshur Counties.

AREA 10 - Marion County.

AREA 11 - Monongalia County.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
AREA 1					
Carpenters					
Contracts under $100,000	9.95	.25	.20		.04
Contracts $100,000 or more	10.20	.25	.20		.04
Piledrivermen					
Contracts under $100,000	10.45	.25	.20		.04
Contracts $100,000 or more	10.70	25	.20		.04

DECISION NO. WV76-3286

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 2					
Carpenters	9.90	.45	.25		.02
Piledrivermen	10.20	.45	.25		.02
AREA 3					
Carpenters	9.45	.87	.65		.02
Piledrivermen	10.24	5%	10%		½ of 1%
AREA 4					
Carpenters	10.62	.35	.35		.02
Piledrivermen	10.87	.35	.35		.02
AREA 5					
Carpenters	9.91	.25	.25		.02
Piledrivermen	10.16	.25	.25		.02
AREA 6					
Carpenters	9.72	.40	.50		.03
Piledrivermen	10.01	.40	.50		.03
AREA 7					
Carpenters	10.02	.35	.35		.02
Piledrivermen	10.27	.35	.35		.02
AREA 8					
Carpenters	9.60	.35	.35		.02
Piledrivermen	9.85	.35	.35		.02

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN

AREA 1 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Pleasants, Randolph, Taylor, Tucker, Tyler, Upshur, Webster & Wetzel Counties.

AREA 2 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Greenbrier, Jackson (southern portion including the towns of Leon, Ripley & Hereford), Kanawha, Lincoln, Mason, Monroe, Pocahontas, Putnam & Roane Counties.

AREA 5 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

AREA 7 - Fayette, McDowell, Mercer, Raleigh, Summers & Wyoming Counties.

AREA 8 - Logan County.

DECISION NO. WV76-3286

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
AREA 1	9.25				
AREA 2	9.79		.40		
AREA 3	9.50				
AREA 4	8.20				
AREA 5					
Cement Masons	9.82	.70			
Plasterers	9.10				.01
AREA 6					
Cement Masons	8.11	40			.01
Plasterers	8.25	.25			
AREA 7					
Cement Masons	8.96	.60			.01
Plasterers	8.51	.30			
AREA 8					
Cement Masons	9.30				
Plasterers	9.50				.01
AREA 9					
Cement Masons	7.36	.38	.05	.30	.03
AREA 10					
Cement Masons	9.76	.45			
AREA 11					
Cement Masons	6.90	35			

DECISION NO. WV76-3286

AREAS COVERED BY CEMENT MASONS & PLASTERERS

AREA 1 - Barbour, Grant, Hardy, Pendleton, Pochontas, Randolph, Tucker & Webster Counties.

AREA 2 - Hampshire & Mineral Counties.

AREA 3 - Calhoun, Gilmer, Jackson, Mason (northern portion of the county, south to but not including Point Pleasant), Pleasants, Ritchie, Tyler, Wirt, & Wood Counties.

AREA 4 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 5 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln (eastern half of county), Logan, Putnam, Raleigh & Roane Counties.

AREA 6 - Brooke (the northern portion of county to Buffalo Creek) and Hancock Counties.

AREA 7 - Brooke (remainder of county), Marshall, Ohio & Wetzel Counties.

AREA 8 - Doddridge, Harrison, Lewis, Taylor & Upshur Counties.

AREA 9 - Marion, Monongalia Counties.

AREA 10 - Cabell, Lincoln (remainder of county), Mason (remainder of county) & Wayne Counties.

AREA 11 - Greenbrier County.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Barbour, Doddridge, Harrison Lewis, Randolph & Upshur Counties:					
Wiremen	9.10	.50	1%+.53	1.17	.03
Cable Splicers	10.01	50	1%+.53	1.17	.03
Jackson, Pleasants, Riitchie, Tyler, Wirt & Wood Counties:					
Wiremen	9.75	.50	1%+1.02	1.02	.04
Cable Splicers	10.00	.50	1%+1.02	1.02	.04

DECISION NO. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties:					
Wiremen	9.90	.50	1%+.32	1.02	.04
Cable Splicers	10.15	.50	1%+.32	1.02	.04
Brooke (remainder of county) and Hancock Counties:					
Wiremen	10.80	6%	7%	8%	1/5 of 1%
Cable Splicers	11.20	6%	7%	8%	1/5 of 1%
Cabell & Wayne Counties:					
Wiremen	10.37	.50	1%+.47	1.02	.04
Cable Splicers	10.89	.50	1%+.47	1.02	.04
Lincoln County:					
Wiremen	10.57	.50	1%+.47	1.02	.04
Cable Splicers	11.10	.50	1%+.47	1.02	.04
Logan, Mason & Mingo Counties:					
Wiremen	10.82	.50	1%+.47	1.02	.04
Cable Splicers	11.36	.50	1%+.47	1.02	.04
Mineral County:					
Wiremen	10.15	.50	1%+.25		1%
Hampshire County:					
Wiremen	10.35	.50	1%+.25		1%
Grant County:					
Wiremen	10.55	.50	1%+.25		1%
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:					
Wiremen	8.51	.30	1%		½ of 1%
Cable Splicers	8.91	.30	1%		½ of 1%
Hardy & Pendleton Counties:					
Contracts under $30,000:					
Wiremen	6.25	.50	1%		3/4 of 1%
Contracts $30,000 or more:					
Wiremen	9.65	.50	1%		3/4 of 1%
Marion, Monongalia, Taylor & Tucker Counties:					
Contracts under $12,000:					
Wiremen	5.50	.50	1%+1.02	1.27	.02
Contracts over $12,000					
Wiremen	8.85	.50	1%+1.02	1.27	.02
Cable Splicers	9.00	.50	1%+1.02	1.27	.02

DECISION No. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Summers & Wyoming Counties:					
Contracts $15,000 or less:					
Wiremen	7.55	.50	1%+.12	.77	.06
Cable Splicers	7.85	.50	1%+.12	.77	.06
Contractors over $15,000:					
Wiremen	10.45	.50	1%+.12	.77	.06
Cable Splicers	10.75	.50	1%+.12	.77	.06
Fayette (except Falls & Kanawha Twps.) County:					
Contractors $15,000 or less:					
Wiremen	7.35	.50	1%+.12	.77	.06
Cable Splicers	7.65	.50	1%+.12	.77	.06
Contracts over $15,000:					
Wiremen	10.25	.50	1%+.12	.77	.06
Cable Splicers	10.55	.50	1%+.12	.77	.06
Raleigh (except Clear Fork & Marsh Fork Twps.) County:					
Contracts $15,000 of less:					
Wiremen	7.05	.50	1%+.12	.77	.06
Cable Splicers	7.35	.50	1%+.12	.77	.06
Contracts over $15,000:					
Wiremen	9.95	.50	1%+.12	.77	.06
Cable Splicers	10.25	.50	1%+.12	.77	.06
Boone, Braxton, Calhoun, Clay Fayette (Falls & Kanawha Twps), Gilmer, Kanawha, Putnam, Raleigh (Clear Fork & Marsh Fork Twps.), Roane & Webster Counties:					
Wiremen	11.35	.50	1%+.07	.02	04
Cable Splicers	12.46	.50	1%+.07	.02	.04
ELEVATOR CONSTRUCTORS:					
Boone, Clay, Fayette, Kanawha Logan , Mingo & Putnam Counties:					
Mechanics	9.895	.495	.32	4%+b+c	.02
Helpers	6.93	.495	.32	4%+b+c	.02
Probationary Helpers	4 95				

DECISION NO. WV76-3286

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cabell, Mason & Wayne Counties:					
Mechanic	10.945	.545	.35	4%+b+c	.02
Helpers	7.66	.545	.35	4%+b+c	.02
Probationary Helpers	5.47				
Brooke, Hancock, Harrison, Marshall & Ohio Counties:					
Mechanics	9.20	.495	.32	4%+b+c	.02
Helpers	6.44	.495	.32	4%+b+c	.02
PRobationary Helpers	4.60				
GLAZIERS:					
AREA 1	9.33				
AREA 2	9.50		.20		
AREA 3					
Inside	5.40	.26	.20	.60+p	
Outside	6.10	.26	.20	.60+p	

AREAS COVERED BY GLAZIERS

AREA 1 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 2 - Boone, Cabell, Calhoun, Clay, Fayette, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pendleton, Pocahontas, Putnam, Raleigh, Summers, Wayne & Wyoming Counties.

AREA 3 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.

IRONWORKERS -Structural, Ornamental & Reinforcing					
AREA 1	9.67	.65	.70		.01
AREA 2	10.63	60	.75		.03
AREA 3	10.42	.75	.85		.05
AREA 4	9.84	60	.90		
AREA 5	9.55	60	.65		.03
AREA 6					
Zone 1 - 10 miles from Union Hall	10.26	.65	.70		.01
Zone 2 - 10-15 miles from Union Hall	10.41	.65	.70		.01
Zone 3 - 15-20 miles from Union Hall	10.51	.65	.70		.01
Zone 4 - 20-25 miles from Union Hall	10.61	.65	.70		.01

DECISION NO.: WV76-3286

AREA COVERED BY IRONWORKERS

AREA 1 - Calhoun, Doddridge, Gilmer, Jackson, Lewis, Mason, Pleasants, Ritchie, Roane, Upshur, Wirt & Wood Counties.

AREA 2 - Barbour, Brooke, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Taylor, Tyler & Wetzel Counties.

AREA 3 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln, Logan, McDowell, Putnam, Raleigh, Webster & Wyoming Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral, Pendleton, Randolph & Tucker Counties.

AREA 5 - Greenbrier, Mercer, Monroe, Pocahontas & Summers Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
AREA 1					
Group 1	7.87	.35	.35		.03
Group 2	7.52	.35	.35		.03
Group 3	7.22	.35	.35		.03
AREA 2					
Group 1	7.81	.35	.35		.03
Group 2	7.46	.35	.35		.03
Group 3	7.16	.35	.35		.03
AREA 3					
Group 1	7.15	.35	.35		.03
Group 2	6.80	.35	.35		.03
Group 3	6.50	.35	.35		.03
AREA 4					
Group 1	8.01	.35	.35		.03
Group 2	7.66	.35	.35		.03
Group 3	7.36	.35	.35		.03
AREA 5					
Group 1	7.58	.35	.35		.03
Group 2	7.23	.35	.35		.03
Group 3	6.93	.35	.35		.03
AREA 6					
Group 1	7.95	.35	.35		.03
Group 2	7.60	.35	.35		.03
Group 3	7.30	.35	.35		.03

DECISION NO WV76 3286

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 7					
Group 1	8.05	.35	.35		.03
Group 2	7.70	.35	.35		.03
Group 3	7.40	.35	.35		.03
AREA 8					
Group 1	7.60	.55	.40		.05
Group 2	7.765	.55	.40		.05
Group 3	7.80	.55	.40		.05
Group 4	7.845	.55	.40		.05
Group 5	7.93	.55	.40		.05
Group 6	8.10	.55	.40		.05
Group 7	8.13	.55	.40		.05
Group 8	8.28	.55	.40		.05
Group 9	8.43	.55	.40		.05
Group 10	8.50	.55	.40		.05

CLASSIFICATION DEFINITION
LABORERS - AREAS 1,2,3,4 5,6,7

GROUP 1 - Laborers; carpenter tender; flagmen; water boy; demolition worker; fire watch; landscape laborer.

GROUP 2 - Powderman helper; semi-skilled laborer; scaffold builders; chainmen & rod men; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tenders; lathers tenders; tile setters tenders; mortar mixers jackhammer operators; vibrator operators; tamper operators; pavement buster operators; chipping & Peening hammer operators; air syphon & air pump operators; riprap finishers; concrete saw operators; concrete technician; pwer saw operators; chain saw operators; motorized buggy operators; pipelayers helpers; drill operators helpers; sheeters & Shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workmen working with acid mortar, acid brick, acid or mastic asphalt; workmen working creosote; nozzlemen for gunnite or sandblasting; tool room attendants; ride or walk roller tampers.

GROUP 3 - Blacksmith; powdermen; air track operator; pipe layer (including laser beam set-up); burner.

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LABORERS - AREA 8

GROUP 1 - General laborers; carpenter tenders.

GROUP 2 - Brick handlers; tenders for brick masons, plasterers, stone masons; tile setters; montarmen for masons & plasterers; men mixing cement for cement finishers.

GROUP 3 - Operators of concrete busters, jackhammers, air spades, chipping hammers, air tampers, vibrators, power buggy, cement saw, power saw, sand-blaster, acetylene burners; welders; scuba divers; panel cleaning machines; all power driven tools operators; air pump operators; air blow pipe operators; pipe layers & helpers working in ditches or tunnels; hand spikers on railwoads.

GROUP 4 - Ditches, trenches, caissons & coffers over 6' Deep (open top).

GROUP 5 - Laborers performing work pertaining to or in connection with repair stoves, blast furnaces & basic oxygen process furnaces, steeples & stacks, annealing process furnaces, Kilns, soaking pits, coke battries on industrial work; demolition of stacks 50' to 100'; tunnel laborers, muckers, including caisson & coffers, horizontal & underground.

GROUP 6 - Demolition of stacks 100' to 150'.

GROUP 7 - Miners, including caissons & coffers, horizontal or underground; mucking machine operators.

GROUP 8 - Blaster men & helpers; billmen & Lancer; bottom-men in blast furnaces; stacks, stoves & dust covers.

GROUP 9 - GUnnite nozzlemen.

GROUP 10 - Demolition of stacks over 150'.

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AREAS COVERED BY LABORERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Braxton, Doddridge, Gilmer, Grant, Hampshire, Hardy, Harrison, Lewis, Marion, Mineral, Monongalia, Pendleton, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 3 - Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers & Wyoming Counties.

AREA 4 - CaBell, Lincoln, Mason & Wayne Counties.

AREA 5 - Logan & Mingo Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, WIrt & Wood Counties.

AREA 7 - Marshall, Ohio & Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
AREA 1	10.125		.10		
AREA 2	10.25		.20		.01
AREA 3	8.41	30	.10		.01
AREA 4	8.98	.45	1.10		.01
AREA 5	9.315		.10		
AREA 6	8.43		.15		.01

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AREAS COVERED BY LATHERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Taylor, Tyler, Upshur & Wetzel Counties.

AREA 3 - Brooke, Marshall & Ohio Counties.

AREA 4 - Hancock County

AREA 5 - Cabell, Mason & Wayne Counties

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Wirt & Wood Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:					
Linemen	8.66	.35	1%		1/2 of 1%
Cable Splicers	9.06	.35	1%		1/2 of 1%
Equipment Operators	7.45	.35	1%		1/2 of 1%
Truck with earth boring auger	6.06	.35	1%		1/2 of 1%
Truck with winch & groundmen	4.76	.35	1%		1/2 of 1%
Mineral County:					
Linemen	10.15	.50	1%+.25		1/2 of 1%
Equipment Operators	9.64	.50	1%+.25		1/2 of 1%
Truck drivers & groundmen	6.60	.50	1%+.25		1/2 of 1%
Hampshire County:					
Linemen	10.35	.50	1%+.25		1/2 of 1%
Equipment Operators	9.84	.50	1%+.25		1/2 of 1%
Truck drivers & groundmen	6.80	.50	1%+.25		1/2 of 1%
Grant County:					
Linemen	10.55	.50	1%+.25		1/2 of 1%
Equipment Operators	10.04	.50	1%+.25		1/2 of 1%
Truck drivers & groundmen	7.00	.50	1%+.25		1/2 of 1%
Hardy & Pendleton Counties:					
Linemen, cable splicers & equipment operators	12.11	.35	1%		1/2 of 1%
Truck with winch, pole or steel handling	7.73	.35	1%		1/2 of 1%
Groundmen	7.47	.35	1%		1/2 of 1%

DECISION NO. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Raleigh					
Linemen & equipment Operators	10.00	.45	1%+.12	.77	1/2 of 1%
Cable Splicer	10 30	.45	1%+.12	.77	1/2 of 1%
Groundmen	8.00	.45	1%+.12	.77	1/2 of 1%
Summers & Wyoming Counties:					
Linemen & equipment operators	10.50	.45	1%+.12	.77	1/2 of 1%
Cable Splicers	10 80	.45	1%+.12	.77	1/2 of 1%
Groundmen	8.40	.45	1%+.12	.77	1/2 of 1%
Fayette County:					
Linemen & Equipment Operators	10.30	.45	1%+.12	.77	1/2 of 1%
Cable SpLicers	10.60	.45	1%+.12	.77	1/2 of 1%
Groundmen	8.24	.45	1%+.12	.77	1/2 of 1%
Marion, Monongalia, Taylor & Tucker Counties:					
Linemen & Equipment Operators	9.40	.50	1%+1.02	1.27	1/2 of 1%
Cable Splicers	10.34	.50	1%+1.02	1.27	1/2 of 1%
Groundmen & Truck Drivers	7.52	.50	1%+1.02	1.27	1/2 of 1%
Jackson, PLeasants, Ritchie, Tyler, Wirt & Wood Counties:					
Linemen & Equipment Operators	9.80	.45	1%+1.02	1.02	1/2 of 1%
Cable Splicers	10.78	.45	1%+1.02	1.02	1/2 of 1%
Groundmen	7.84	.45	1%+1.02	1.02	1/2 of 1%
Brooke (Buffalo Twp. only), Marhall, Ohio & Wetzel Counties:					
Linemen & Equipment Operators	9.90	.50	1%+.32	1.02	1/2 of 1%
Cable Splicers	10.15	.50	1%+.32	1.02	1/2 of 1%
Groundmen	7.92	.50	1%+.32	1.02	1/2 of 1%
Brooke (except Buffalo Twp.) & Hancock Counties:					
Linemen & Equipment Operator	10.80	5%	6%	8%	1/2 of 1%
Cable splicers	11.20	5%	6%	8%	1/2 of 1%
Groundmen	7.02	5%	6%	8%	1/2 of 1%
Barbour, Doddridge, Harrison Lewis, Randolph, and Upshur Counties:					
Linemen & Equipment Operators	9.10	.50	1%+.53	1.18	1/2 of 1%
Cable Splicers	10.01	.50	1%+.53	1.17	1/2 of 1%
Groundmen & truck drivers	7.28	.50	1%+.53	1.17	1/2 of 1%
Boone, Braxton, Cabell, Calhoun Clay, Gilmer, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Roane, Wayne & Webster Counties:					

DECISION No. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen & Equipment Operators	10.48	.45	1%+.42	1 02	1/2 of 1%
Cable Splicers	11.53	45	1%+.42	1.02	1/2 of 1%
Groundmen	8.38	.45	1%+.42	1.02	1/2 of 1%
MARBLE MASON HELPERS, TERRAZZO WORKER HELPER & TILE LAYER HELPER:					
Cabell, Lincoln, Mason, Mingo & Wayne Counties	7.93	.30	.30		
MILLWRIGHTS:					
AREA 1	10 26	.45	.25		.02
AREA 2	10.79	.40	.37		.03
AREA 3	10.50	.25	.20		.04
AREA 4	10.43	50	.50		.02
AREA 5	10.90	35	.35		.02
AREA 6	9.65	50	.55		.10

AREAS COVERED BY MILLWRIGHTS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell, Lincoln & Wayne Counties.

AREA 3 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 4 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 5 - Boone, Clay, Fayette, Greenbrier, Jackson (Southern portion including the towns of Leon, Ripley & Hereford), Kanawha, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pocahontas, Putnam, Raleigh, Roane (southern portion up to but not including Spencer), Summers & Wyoming Counties.

AREA 6 - Calhoun, Jackson (remainder of county), Pleasants, Ritchie, Roane (remainder of county), Tyler, Wetzel, Wirt & Wood Counties.

DECISION NO. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
AREA 1					
Brush, rollers, hanging wallcovering & installing seemless type floors	7.70		.25		
Spray, sandblasting & use of toxic materials	8.20		.25		
Drywall:					
Taping, spackling, sanding & finishing	9.60		.25		
AREA 2					
Commercial	6.82	.20	.25		.02
Hazardous work	8.63	.20	.25		.02
AREA 3					
Brush & roller	6.42	.50			.01
Paper & vinyl hangers	6.42	.50			.01
Seemless floors	6.42	.50			.01
Glove	6.67	.50			.01
Perfa-taping	6.79	.50			.01
Brush height over 40'	6.92	.50			.01
Spray, sandblast, seemless floor epoxy & steam cleaning	7.42	.50			.01
AREA 4					
Brush	6.20	.50	.40		
Roller	6.20	.50	.40		
Spray	7.20	.50	.40		
Vinyl hanging & taping	8.15	.50	.40		
AREA 5					
Commercial	8.40	.50	.20	.30	
Drywall finishers	8.65	.50	.20	.30	
Swing & boat swain chair	8.75	.50	.20	.30	
Vinyl wall covering	8.90	.50	.20	.30	
Structural steel after erection	9.25	.50	.20	.30	
Repaint structural steel	8.50	.50	.20	.30	
Spray painting	9.40	.50	.20	.30	

DECISION NO. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Towers, tankes, stacks	9.65	.50	.20	.30	
Sand blasting	10.25	.50	.20	.30	
Extra pay of heights 50' to 100' (+.50 perhour); over 100' (+$1.00 per hour)					
AREA 6					
New Construction:					
Brush	9.16		.30		.01
Roller	9.42		.30		.01
Spray & Blast	10.18		.30		.01
Pot-Men	10.18		.30		.01
Commercial Repaint:					
Brush	7.74		.30		.01
Roller	8.02		.30		.01
Paper Hanger	9.16		.30		.01
Drywall	9.61		.30		.01
Spray, Pot-Men	10.18		.30		.01
Paper & Vinyl Hangers	9.16		.30		.01
Open Structural Steel	10.51		.30		.01
Drywall Pointers & Tapers	9.61		.30		.01
Liquid Tile Brush	9.93		.30		.01
Stacks, Vent Pipes, Flag Poles, Electrical, Radio & T.V. Towers & Tanks over 30' high	10.11		.30		.01
Hdroject, Steam Cleaning & Glove WOrk	10.18		.30		.01
Operating Mechanical Taping Machines	10.61		.30		.01

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	REPAINT Basic Hourly Rates	NEW Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 7						
Air Compressor Operator	7.32	8.14				
Brush Painting	7.32	8.14				
Roller, Dry-Wall Pointers & Tapers, Dipping & Mitten Work & Spray	7.68	8.46				
Water Blasters, Steam Jenny Nozzle Men, Swinging Scaffold & Boatswain Chair, Window Jack Work	8.43	8.99				
Brush Painters on Bridges, Needle Bean, Cable Work, Power Tool Work, Brush & Flame Cleaning	8.86	9.37				
Operating Mechanical Taping Machines	9.08	9.73				
Sand Blasters	9.12	9.70				
All Stacks, Vent Pipe, Flag Poles in excess of 30' high, all Towers Water Towers, Elevated Towers, Electrical Switch Yards, Transformer Banks & Television Towers	10.25	10.65				
Vinyl hangers & Paper hangers (with tools	7.67	8.46				

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AREAS COVERED BY PAINTERS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 3 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 4 - Brooke (remainder of county) & Hancock Counties.

AREA 5 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 6 - Jackson, Pleasants, RItchie, Roane, Tyler, Wirt & Wood Counties.

AREA 7 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Pocahontas, Putnam, Raleigh, Summers & Wyoming Counties.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS:					
AREA 1	9.65	.45	.55	10%	.04
AREA 2	9.90	.45	.55	10%	.04
AREA 3	10.15	.45	.55	10%	.04
AREA 4	10.40	.45	.55	10%	.04
AREA 5	9.69	.40	7%	10%	.05
AREA 6	10.46	.40	7%	8%	.05
AREA 7					
Comercial Work	10.23	.40	.50		
Repair Work	10.04	.40	.50		
AREA 8					
ZONE 1 - within an 8 mile radius of CAbell County courthouse, Huntington, W.V.	10.58	.50	1.00		.02
ZONE 2 - 8 to 15 miles from the courthouse	10.78	.50	1.00		.02
ZONE 3 - 15 to 25 miles from the courthouse	10.98	.50	1.00		.02
ZONE 4 - Over 25 miles from the courthouse	11.23	.50	1.00		.02
AREA 9					
Contracts to $75,000	7.55	.45	.40		.09
Contracts above $75,000	9.62	.45	.40		.09

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AREAS COVERED BY PLUMBERS & PIPEFITTERS

AREA 1 - Harrison, Marrion & MonongaLia Counties.

AREA 2 - Barbour, Doddridge, Lewis, Taylor & Upshur Counties.

AREA 3 - Braxton (that portion north of the southern corporate limits of the city of Sutton), Gilmer, Randolph, Tucker & Webster (that portion north of the southern city limits of Webster Springs) Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 5 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke (remainder of county) & Hancock Counties.

AREA 7 - Calhoun, Jackson (northern portion to but not including the Town of Ripley), Pleasants, Ritchie, Roane (northern portion up to but not including Spencer), Tyler, Wirt & Wood Counties.

AREA 8 - Boone (southwest portion to but not including the Towns of Madison & Whitesville), Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 9 - McDowell, Mercer, Monroe, Raleigh& Wyoming Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS:					
Plumbers	9.78	.45	.30		.05
Steamfitters	9.82	.45	.15		.05

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AREA COVERED BY PLUMBERS & STEAMFITTERS

Boone (remainder of county)) Braxton (remainder of county), Clay, Fayette Greenbrier, Jackson (remainder of county), Kanawha, Pocahontas, Putnam, Roane (remainder of county), SUmmers & Webster (remainder of county) Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	10.62	.40	.50		.04
GROUP 2	10.12	.40	.50		.04
GROUP 3	9.72	.40	.50		.04
GROUP 4	9.32	40	.50		.04
GROUP 5	8.62	.40	.50		.04

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

GROUP 1 - Operating cranes, derricks, tower cranes, and similar equipment, having a reach from the top of its boom to the ground of 175' or a lifting capacity of 70 tons; all shovels, draglines, clamshells, backhoes, end-loaders, and concrete mixing plants of 4 cubic yard capacity or over; hoist with 18,000 pound line pull or over.

GROUP 2 - All mechanics and those operating cranes, derricks and similar equipment hydraulic cranes in excess of 15 tons capacity; all shovels, draglines, clamshells, gradealls, tug or tow boats; concrete clamshells, gradealls, tug or tow boats - concrete mixing plants of 3 cubic yards capacity; endloaders in excess of 2½ cubic yards capacity; backhoes in excess of ½ cubic yard capacity; hoist in excess of 5,000 pounds line pull; side boom cat, standards guage locomotive.

GROUP 3 - Hydraulic cranes up to and including 15 tons capacity; endloaders up to and including 2½ cubic yards capacity; backhoes up to and including ½ cubic yard capacity; two drum hoist; well point system, concrete mixing plants, elevators, core drills, fork lift, ross carrier, air compressor (60 CFM or over), high compression equipment, concrete pumps double.

GROUP 4 - Trencher, air tugger, concrete mixer, (2 bag) material hoist, (single) "A" frame truck, rubber tired scraper, power grader, dozer, tractor and pan, push cat, all tractors, oiler's standard guage locomotive crane, truck cranes; over 15 tons, grease truck operator and greaser, fireman, deckhand, asphalt and concrete paving equipment operators.

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 - Roller and compactor, concrete mixer, (1 bag) Barbour Greene loader, mechanic helper, crawler crane oiler, air compressor, welding machine, gasoline powered) light plant, generator, conveyor, mechanical heater and pump operator.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
AREA 1	7.45		.10		
AREA 2	8.08	.10	.15		
AREA 3	10.35	.45	.30		d
AREA 4					
Commercial:					
Roofers	9.60		.10		.01
Waterproofers	9.85		.10		.01
Unprotected roofing or reroofing:					
Roofers	7.25		.10		.01
Waterproofers	7.50		.10		.01

AREA COVERED BY ROOFERS

AREA 1 - Cabell, Lincoln, Logan, Mingo & Wayne Counties.

AREA 2 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 3 - Boone, Clay, Fayette, Greenbrier, Kanawha, Mason, McDowell, Mercer, Monroe, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 4 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Grant, Hardy, Harrison, Jackson, Lewis, Marion, Mineral, Monongalia, Pendleton, Pleasants, Pocahontas, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt & Wood Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEETMETAL WORKERS:					
AREA 1	10.20		.25	1.25	.02
AREA 2	10.47	.45+e	.50		.05
AREA 3	8.93	45	.45		.02
AREA 4	10.50	.45	.55		.04
AREA 5	9.28	.35	.30		.04

AREAS COVERED ON SHEETMETAL WORKERS

AREA 1 - Grant, Hampshire, Hardy & Mineral Counties.

AREA 2 - Cabell, Lincoln, Logan, Mingo & Wayne Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Fayette, Greenbrier, Kanawha, Mason, McDowell, Mercer, Monroe, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 5 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pendleton, Pleasants, Pocahontas, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Wetzel, Wirt & Wood Counties.

SOFT FLOOR LAYERS:					
AREA 1	9.45	.87	.65		.02
AREA 2	9.72	.40	.50		.03
AREA 3	10.02	.35	.35		.02
AREA 4	9.60	.35	.35		.02
AREA 5	10.62	.35	.35		.02
AREA 6	9.51	.25	.25		.02

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AREAS COVERED BY SOFT FLOOR LAYERS

AREA 1 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 2 - Cabell, Mingo & Wayne Counties.

AREA 3 - Fayette, McDowell, Mercer, Raleigh, Summers & Wyoming Counties.

AREA 4 - Logan County

AREA 5 - Boone, Clay, Greenbrier, Jackson (southern portion including the Towns of Leon, Ripley & Hereford), Kanawha, Lincoln, Mason, Monroe, Pocahontas, Putnam & Roane Counties.

AREA 6 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	11.23	60	.90		.08
TRUCK DRIVERS:					
AREA 1					
GROUP 1	8.16	f	g		
GROUP 2	8.26	f	g		
GROUP 3	8.41	f	g		
GROUP 4	8.46	f	g		
GROUP 5	8.51	f	g		
GROUP 6	8.61	f	g		
GROUP 7	8.81	f	g		
AREA 2					
GROUP 1	6.30	h	i		
GROUP 2	6.40	h	i		
GROUP 3	6.55	h	i		
GROUP 4	6.70	h	i		
GROUP 5	6.95	h	i		
GROUP 6	7.05	h	i		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 3					
GROUP 1	7.91	h	j	.80	
GROUP 2	8.01	h	j	.80	
GROUP 3	8.16	h	j	.80	
GROUP 4	8.21	h	j	.80	
GROUP 5	8.26	h	j	.80	
GROUP 6	8.31	h	j	.80	
GROUP 7	8.56	h	j	.80	
AREA 4					
GROUP 1	6.10	k	i		
GROUP 2	6.20	k	i		
GROUP 3	6.40	k	i		
GROUP 4	6.45	k	i		
GROUP 5	6.50	k	i		
GROUP 6	6.88	k	i		
AREA 5					
GROUP 1	5.85	l	m	n	
GROUP 2	5.88	l	m	n	
GROUP 3	5.90	l	m	n	
GROUP 4	6.00	l	m	n	
GROUP 5	6.08	l	m	n	
GROUP 6	6.13	l	m	n	
GROUP 7	6.16	l	m	n	
GROUP 8	6.43	l	m	n	
GROUP 9	6.50	l	m	n	
GROUP 10	6.53	l	m	n	
AREA 6					
GROUP 1	5.37	o			
GROUP 2	5.38	o			
GROUP 3	5.42	o			
GROUP 4	5.45	o			
GROUP 5	5.47	o			
GROUP 6	5.70	o			
GROUP 7	6.00	o			
GROUP 8	6.10	o			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 7					
GROUP 1	7.56	.60	.70		
GROUP 2	7.71	.60	.70		
GROUP 3	7.91	60	.70		
GROUP 4	8.10	.60	.70		
GROUP 5	8.34	.60	.70		

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS - AREA 1

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, flatbody material truck (straight job), greasers, washers, tiremen, gas pumps attendants, dump trucks (up to 5 cubic yards)
GROUP 2 - Tank truck (straight)
GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi-trailers, (whether flat rack, or pole and hauled or pushed by truck or tractor), agitator or mixer trucks (up to 5 cubic yards), farm type tractor, tank truck (semi).
GROUP 4 - Low-Boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.
GROUP 5 - Material checker and receiver, mechanics helpers.
GROUP 6 - Agitator or mixer truck (5 cubic yards and over).
GROUP 7 - Mechanics, euclid, dumpster, turnarocker, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS AREA 2

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks.
GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), greasers, washers, tiremen, gas pump attendants, mechanic helpers, material checkers & receivers, tank truck (straight).
GROUP 3 - Dump trucks (5 cubic yards & over), semi-dump trucks, semi-trailer (whether flat, rack or pole and hauled or pushed by truck or tractors), agitators or mixed trucks (up to 5 cubic yards), tank trucks (semi), monorails.
GROUP 4 - Low-boy trailers, winch trucks, fork truck, distributor trucks (front and back end), truck crane, agitators or mixer trucks (5 cubic yards & over), hydraulic tail gate, farm type tractors.
GROUP 5 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons or similar equipment, A-frame, hydrolift, dual purpose trucks.
GROUP 6 - Mechanics.

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TRUCK DRIVERS - AREA 3

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, flatboat material truck (straight job), greasers, washers, tiremen, gas pump attendants, dump trucks (up to 5 cubic yards).
GROUP 2 - Tank truck (straight)
GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi trailers (whether flat rack or pole and hauled or pushed by truck or tractors), agitator or mixer trucks (up to 5 cubic yards), tank truck (semi)
GROUP 4 - Low-boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.
GROUP 5 - Material checker and receiver, mechanics helpers.
GROUP 6 - Agitator or mixer truck (5 cubic yards and over).
GROUP 7 - Mechanics, tri-axle dump trucks, hydraulic lift tailgate truck and farm type tractors, end dumpsters, turnarockers, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS - AREA 4

GROUP 1 - Warehouse, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, team 2 - up.
GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), material checkers, material receivers, team 4 - up, greasers, tiremen and mechanic helpers (truck)
GROUP 3 - Semi-dump truck, semi-trailers (flat rack or pole), low-boy trucks, distributor trucks, agitators or mixer trucks (up to and including 5 yards) dump trucks and dumpster (5 to 12 yards).
GROUP 4 - Dump truck, agitator or mixer trucks and other hauling equipment (12 yards to 20 yards), mucker trucker, rubber-tired tractors (towing or pushing)
GROUP 5 - Dump truck, agitator or mixer trucks and other hauling equipment (20 yards and over)
GROUP 6 - "A" Frame operator, mechanics (truck).

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TRUCK DRIVERS - AREA 5

GROUP 1 - Flat bed material trucks, dump trucks, semi-dump trucks.
GROUP 2 - Tank trucks (straight & semi).
GROUP 3 - Semi-trailers, tractor trailers.
GROUP 4 - Pole trailer.
GROUP 5 - Agitator & mixer trucks (up to 5 cubic yards)
GROUP 6 - Euclids, dumpsters, turnarocker, ross carriers, athey wagons.
GROUP 7 - Agitator & mixer trucks (over 5 cubic yards).
GROUP 8 - Low-boy trailers, winch trucks, ford trucks (front and back end) truck crane.
GROUP 9 - A-Frame.
GROUP 10 - Mechanics.

TRUCK DRIVERS - AREA 6

GROUP 1 - Warehousemen, yardmen, truck helpers.
GROUP 2 - Greasers, washers, tiremen, gas pump attendants, mechanics helpers.
GROUP 3 - Flatboy material trucks, dump trucks, semi-trucks.
GROUP 4 - Tank trucks (straight & semi)
GROUP 5 - Semi-trailers & tractor trailers.
GROUP 6 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons.
GROUP 7 - Low-boy trailers, winch trucks, A-frame, fork trucks, distributor (front & back end), truck crane.
GROUP 8 - Mechanics.

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TRUCK DRIVERS - AREA 7

GROUP 1 - Dumpmen & flagmen.
GROUP 2 - Pick-up trucks, dump tracks under 5 yard capacity, straight trucks.
GROUP 3 - Panel trucks, straight truck with multiple axle, dumpsters under 5 yard capacity, transit mix, dump trucks from 5 to 9 yard capacity, flat body material trucks (straight jobs), greasers, tiremen & mechanic helpers, rubber-tired (towing or pushing flatbody vehicles), & form trucks.
GROUP 4 - Dump trucks 10-15 yard capacity.
GROUP 5 - Dump trucks over 15 yard capacity, bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frames, mechanics, semi-trailer or tractor trailers, low boy trucks, asphalt distributor trucks, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, off-highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

AREAS COVERED BY TRUCK DRIVERS

AREA 1 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Pocahontas, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 3 - CAbell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 4 - Barbour, DOddridge, Harrison, Lewis, Marion, Monongalia, Randolph, Taylor, Tucker & Upshur Counties.

AREA 5 - Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke & Hancock Counties.

AREA 7 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

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PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E- Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holiday: Christmas Day.

b. PAid Holidays: A through F.

c. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Employer contributes 2¢ per hour per employee from June 1 to December 31.

e. Employer contribution of 3% per hour to the Sasmi Fund per employee and is based on the basic hourly rate, plus pension, plus health and welfare.

f. Employer contributes $41.16 per month per employee employed 30 days or more.

g. Employer contributes $34.67 per month per employee.

h. Employer contributes $58.50 per month per employee employed 30 days or more.

i. Employer contributes $26.00 per month per employee employed 30 days or more.

j. Employer contributes $34.67 per month per employee employed 30 days or more.

k. Employer contributes $28.50 per month per employee employed 30 days or more.

l. Employer contributes $6.30 per week per employee.

m. Employer contributes $6.00 per week per employee.

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FOOTNOTE (Cont'd):

n. One week's paid vacation.

o. Employer contributes $9.50 per week per employee.

p. Paid Holidays: A through F, Plus Christmas Eve.

SUPERSEDEAS DECISION

STATE: Wisconsin
COUNTY: Racine
DECISION NO.: WI76-2169
DATE: Date of Publication
Supersedes Decision No. WI75-2064, dated May 16, 1975, in 30 FR 21691
DESCRIPTION FOF WORK: Building and Residential Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.57	.60	.70	1.00	.04
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.05	.50	.50	.50	
CARPENTERS (West of Hwy. #75)					
Carpenters and Soft Floor Layers	9.86	.30	.40		.04
Millwrights	10.38	.30	.40		.04
CARPENTERS (Balance of County)					
Carpenters and Soft Floor Layers	9.95	.40	.50		.03
Millwrights	10.21	.40	.50		.03
Piledrivermen	10.03	.40	.50		.03
CEMENT MASONS	8.76	.40	.60	.50	
ELECTRICIANS (Burlington)	10.20	.45	1%	7%	½%
ELECTRICIANS (Balance of County)	11.48	.55	1%		3/4 of 1%
ELEVATOR CONSTRUCTORS:					
Constructors	11.17	.545	.35	4%+a+b	.02
Helpers	7.82	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	10.06	.95	.70	1.15	.15
LABORERS:					
Laborers	8.10	.40	.60	.20	
Air Tool Operators (Jackhammer)	8.42	.40	.60	.20	
Mason Tender	8.23	.40	.60	.20	
Mortar Mixer and Plasterers' Tender	8.23	.40	.60	.20	
Vibrator Operator	8.42	.40	.60	.20	
LATHERS	8.23	.40	1.45		.01
LEADBURNERS	9.25	.35		c	.01
PAINTERS:					
Brush	8.65	.40	.40		
Structural Steel	8.80	.40	.40		
Spray	9.40	.40	.40		
PLASTERERS	9.38	.40	.50		
PLUMBERS AND STEAMFITTERS	10.93	.40	.60	.89	
ROOFERS	9.62	.40	.15		
PILEDRIVERMEN (West of Hwy #75)	10.01	.30	.40		.04

DECISION NO WI76-2169.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$ 10.00	.40	.70	1.15	.02
SPRINKLER FITTERS	10.40	.60	.90		.08
TERRAZZO WORKERS	9.42	.80	.60	.47	.07
TILE SETTERS	8.58	.50	.50	.50	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employer who has worked in business more than 5 years. Employer contributes 2% if regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the Holiday, and the regularly scheduled work days immediately preceding and following the holidays.

DECISION NO. WI76-2169

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 10.02	.70	.90		.10
GROUP II	9.77	.70	.90		.10
GROUP III	9.47	.70	.90		.10
GROUP IV	9.37	.70	.90		.10
GROUP V	9.16	.70	.90		.10
GROUP VI	8.92	.70	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

[FR Doc.76-37031 Filed 12-27-76;8:45 am]